

***United States Court of Appeals
for the Second Circuit***



**APPELLEE'S
APPENDIX**

76-5039

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

In re

REA HOLDING CORPORATION
THE EXPRESS COMPANY
REA EXPRESS, INC., f/k/a
Railway Express Agency, Inc.
REXCO SUPPLY CORPORATION,

Bankrupts.

MATTHEW E. MANNING, ANTHONY SATRIANO, DANIEL S. GILHULY, VINCENT
PONTILLO, WILLIAM R. WEGE, EDMUND F. NOVITSKI, EDWARD J. COX,
ANTHONY J. JANUZZI, CHARLES F. McGOVERN and JAMES J. KILCOYNE,

Creditors-Appellants,

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES,

Intervenor,

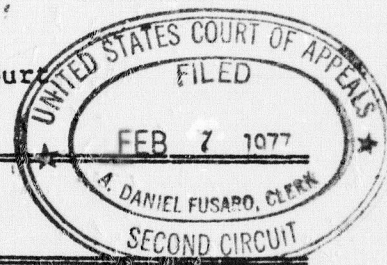
v.

C. ORVIS SOWERWINE, Trustee in Bankruptcy,

Appellee.

On Appeal From the United States District Court
For The Southern District of New York

APPELLEE'S APPENDIX



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REAEMCO Proposed Plan for the Continued
Operations of REA

PROPOSED PLAN
FOR THE CONTINUED
OPERATIONS OF R.E.A.

Submitted by: F. RALPH NOGG AND ASSOCIATES

Consultants to R.E.A. Employees Group

(REAEMCO)

EXHIBIT B

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PROPOSED PLAN
FOR THE CONTINUED
OPERATIONS OF R.E.A.

Submitted by: F. RALPH NOGG AND ASSOCIATES
Consultants to R.E.A. Employees Group
(REAEMCO)

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Introduction

The proposal of setting up a plan wherein employees of R.E.A. would be the owners of the company has many wide and dramatic appeals.

The E.S.O.P. (Employees Stock Ownership Plan) has worked successfully in many companies and has resulted in bankrupt firms becoming viable, when facts indicated that this was impossible.

From the stand point of service within the concepts of economy the REAEMCO plan fits beautifully into that pattern.

In essence R.E.A. will be the realization of intermodal service that everyone has talked about and really accomplished miniscule results.

Air, highway and rail will be integrated to perform the most economical, efficient service on the American horizon.

Briefly the concept on Court approval, would be the continuation of REXCO, volume movement by highway. Immediate action would then be taken to move further volume traffic by trailer on flat-car - T.O.F.

The next phase, to open terminals in 20 key and hub terminals with the same fan effect to smaller communities.

This would be followed by establishing 35 satellite agency terminals making a total of 85 terminals all with the fan effect.

Simultaneously the D.I.Y. (Do it yourself) Service will be available, as well as Air Express and the Consolidating - Distribution Arm - Thrifty.

BRAC employees would ~~use~~ the docks and office positions. Exclusive cartage equipment, leased Line Haul and leased Trailers would handle the motive equipment. All BRAC employees but not necessarily former employees would drive this equipment.

As R.E.A. improves its financial posture and the second phase of terminal opening is accomplished, BRAC employees could be called back to fill those P & D jobs. Planned purchase of additional Trailer equipment would be accomplished as allowed by cash-flow.

Since the Chapter proceeding has tarnished the R.E.A. name, a giant job of image rebuilding will be essential. In all projections of cash-flow, large sums have been dedicated for this purpose.

The dramatic impact of employees stepping into the breach in this historic company, can make very readable copy and fine display advertising.

It further is the intent of simplifying the rates on a zone and mileage basis, so that each and every customer can prepare his own bill. Further plans would call for the acceleration of the payment of freight charges, eliminating considerable paper, reducing overhead and, of course, vastly accelerating the cash-flow. At least a portion of these savings would be passed on to the shipper.

On the following pages elaboration of the plans for the rehabilitation of the Express Company is presented through the following phases: -

Plan
Operations
Personnel
Marketing
Creditors
Financial

A

PLAN

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PLAN IN BRIEF

1. R.E.A. Express, Inc. to be delivered by bankruptcy trustee free and clear of debt to REAEMCO.
 - (a) When Chapter XI administration claims relating to BRAC employees are waived.
 - (b) When claims of Post-Chapter and Pre-Chapter creditor's have been fully or partially paid in a ten year maximum period.
2. REAEMCO Employee Voting Trust to be comprised of two members appointed by employees and two members appointed by F. R. Nogg. F. R. Nogg to be Chairman. Nogg to receive percentage of gross on descending scale. After five years, voting trust members to be elected by active employees.
3. Beneficiaries of voting trust to be BRAC employees during Chapter XI proceeding pari passu based on amount of claims. P. L. Board 1325 to determine claims.
4. BRAC employees who return to work -- 10% payroll deduction to purchase participation in trust. Proceeds used to liquidate "up-front" advance and thence administration claims of employees who worked in 1975 after February 18. After claims are liquidated, beneficiaries limited to active employees. Buy-out provision for employees who leave; new employees become participants through payroll deductions.
5. For five-year period, voting trust to set employee compensation based upon operating ratio of 95%. Working capital developed in operations to be used for expansion of facilities and equipment so that employment opportunities will increase.

6. Plan to issue non-voting preferred stock to those who contribute to start-up capital.
7. Proposal to be acted upon within 30 days.
8. On litigation now being pursued, should there be a judgment or settlement of these claims, 25% of proceeds after expense of these claims will be used for the acceleration of creditor's claims. The balance to inure to R.E.A. operating funds.

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B

OPERATIONS

MODUS OPERANDI

The transportation system of this country is faced with dire times. Many of the railroads are in bankruptcy, the airlines face deficits of tremendous proportions, the trucking industry staggers under inflationary labor increases, and the sea routes have deteriorated for a couple of decades.

Re-organizational efforts of the Express Company appear on the transportation horizon at a time that the economy is struggling for an improved posture and the entire transportation industry, with few exceptions, looks to the future with foreboding.

There are, of course, myriads of reasons that have been advanced for this condition. There has been much talk, but basically little real action in correcting what appears to be basic problems for the answer to the "Why" of the transportation over-all picture.

Each of the transportation entities have their place in the sun insofar as performance of the over-all transportation job. There are certain operations that each form can do better and more economically than the others.

Furthermore, each method of transportation can help the other do a better and more economical job for American business and our country's citizenry.

The word often used is intermodal transportation. In essence, it has only been a word. True exercise of that concept treads on many toes, bureaucracies, labor unions and vested interests.

The anticipated Modus of the Express Company certainly will not or could not cure all these evils. It will be a giant step forward in the intermodal concept that eventually must be the answer to our country's transportation perplexities.

The Express Company plan will embrace the use of all transportation entities - by Air - by Rail - by Highway - and by Water. If and when feasible, to give the American public a truly intermodal form of transportation.

If and when this concept of the perpetuation of the Express Company is approved, immediate steps of re-organization will be placed into action embracing the intermodal theory and performing an all encompassing economic service for the public.

STEP I - Continuation of REXCO service, the movement of volume traffic over the highway, where such service is necessary for the time element and plant situs.

STEP II - Movement of volume traffic by Rail, trailer on flat car service, where motor carrier service is necessary at origin or destination or both.

STEP III - Inaugurate a family of terminals both company and agency operated that will move less-than volume traffic from origin to destination by Rail, Highway and Air, with motor carrier service performed at origin or destination. Such traffic moved will be of the size and weight that can move expeditiously over a conveyor system.

STEP IV - Create a consolidation and distribution system for pooling and distributing of minimum shipments, to eliminate duplicative payment of minimum charges.

STEP V - Create a do-it-yourself service for fast movement of trunks, bags, personal effects, etc. so that the shipping public will have a simple, economic way of moving such items.

The basic concept of the Express Company will be to use the media or combination thereof, that can economically and most expeditiously move the traffic, bearing in mind also the need for fuel conservation.

The company will be set up with 50 hub terminals and three break-bulk terminals. Fanning from each of these hub terminals through Express Agencies will be service to hundreds of other cities throughout the country.

Movement of traffic to key cities under 500 miles will be via the Express Companies highway authority on less than trailer load shipments. Distances over 500 miles will move via trailer-on-flat-car, where such expeditious service is available.

Where there appears to be historic or economic balanced traffic, movement will be Express Company equipment. If the traffic is unbalanced, movement will be via Rail Trailer, trailer being returned to railroads at destination. Trailer movements via highway would be used to effect balance on the REXCO Division. Movement of volume traffic via Rail will use the same principal and inter-divisional liaison established and tightly controlled for balance purposes.

There are in existence many alternate methods of consolidation and distribution. The vast preponderance of these methods are designed to consolidate or distribute for volume traffic. Such service will be available. In addition the small shipper for years has paid the penalty of being "Small", and with escalating economy, minimum shipment costs have risen to the point that it has become a serious economic problem for that category of shipper or receiver of freight.

Through the consolidation and distribution arm of the Express Company, it is proposed that this problem be economically eased without a penalty of poor service.

Small shipments from the same shipper or to the same consignee destined to a single city or municipal zone, will be consolidated in a disposable container with proper paper-flow for a tremendous savings to shippers of small cartons.

Immediately upon Court approval, this operation will be progressed for wider coverage.

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New owner operators and commission agents will be obtained.

Revenue dollar will be divided as follows:

Full Equipment

Owner - operator	75% of Revenue
Commission agent	7%
Creditors	3%
Adm. & Insurance	5%
Communications, Forms, E. c.	3%

93% operating ratio

Tractors Only

Owner - operator	65%
Equipment Lease	10%
Creditors	3%
Adm. & Insurance	5%
Communications, Forms, Etc.	3%
Commission agents	7%

93%

Anticipated revenues per annum \$50 M after first complete year

PHASE II

T O F DIVISION

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The movement of volume traffic by rail necessitates working out agreements by rail and highway combination. Prime rates will be to fifty focal points with highway mileage add-ons for complete service and will be a true intermodal concept. Start up time 90 days.

All costs will be predicated on the division of revenue.

Main-Line

Originating Cartage Carrier	16%
Destination Cartage Carrier	16%
Commission Agent	7%
Adm. Cost - Insurance	5%
Communications, Forms, Adv., Etc.	3%
Rail Carrier	35%
Equipment	10%
Creditor	2%
	94%

On Main-Line to Off-Line, Off-Line to Main-Line, Off-Line to Off-Line, originating carrier and/or destination carrier will receive 75% of add-on plus local percentage.

Anticipated revenues \$65 M after first complete year

PHASE III

Freight Division

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Will be that phase of the operation that will handle general commodities to 20 focal points and surrounding trade territory.

The 20 cities

Atlanta, Georgia
Baltimore, Maryland
Boston, Massachusetts
Chicago, Illinois
Cleveland, Ohio
Dallas-Ft. Worth, Texas
Denver, Colorado
Detroit, Michigan
Houston, Texas
Kansas City, Missouri

Los Angeles, California
Miami, Florida
Minneapolis-St. Paul, Minnesota
New Orleans, Louisiana
New York, New York
Oakland-San Francisco, California
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
St. Louis, Missouri
Washington, D. C.

There will be no piece restrictions, but there will be limitations as to weight per piece and girth, so that all traffic will be able to move expeditiously over conveyor systems. Traffic will be restricted for movements to or from places of business and not homes, apartments or other abodes.

Traffic will move via rail and highway. Cartage carriers under exclusive contract will handle P.U. and Delivery.

Break-down of Revenue dollar will be as follows:

Pick-up (Main-Line)	16%
Delivery (Main-Line)	16%
Sales	3%
Terminal - Cost	22%
Adm. Cost	5%
Communications, Forms, Etc.	3%
Equipment	5%
Line-Haul (Rail - Line-Haul)	22%
Creditors	2%
	94%

Estimated to be operational in 180 days.

Anticipated revenues per annum \$75 M after first year of complete operation

local add-on for P+D

*.80% to local cartage
plus 10% of linehaul -*

PHASE IV

Broadening Freight Division

Once the original concept of the Freight Division is operational, within another 180 days the concept will be broadened to include the following additional cities:

Albany, New York	New Haven, Connecticut
Birmingham, Alabama	Norfolk, Virginia
Buffalo, New York	Oklahoma City, Oklahoma
Charlotte, North Carolina	Omaha, Nebraska
Cincinnati, Ohio	Phoenix, Arizona
Columbus, Ohio	Portland, Oregon
Dayton, Ohio	Providence, Rhode Island
Indianapolis, Indiana	Richmond, Virginia
Jacksonville, Florida	Rochester, New York
Knoxville, Tennessee	Sacramento, California
Louisville, Kentucky	San Diego, California
Little Rock, Arkansas	Salt Lake City, Utah
Memphis, Tennessee	San Antonio, Texas
Milwaukee, Wisconsin	Seattle, Washington
Nashville, Tennessee	Tampa, Florida

Anticipated revenues \$50 M - 94% after first complete year of operations

Possible Agency Terminals

Akron, Ohio	Lexington, Kentucky
Albuquerque, New Mexico	Macon, Georgia
Allentown, Pennsylvania	Mobile, Alabama
Baton Rouge, Louisiana	Raleigh, North Carolina
Charleston, South Carolina	Roanoke, Virginia
Charleston-Huntington, W. Virginia	Shreveport, Louisiana
Chattanooga, Tennessee	South Bend, Indiana
Columbia, South Carolina	Spokane, Washington
Davenport, Iowa	Springfield, Massachusetts
Des Moines, Iowa	Syracuse, New York
Duluth, Minnesota	Toledo, Ohio
El Paso, Texas	Tulsa, Oklahoma
Evansville, Indiana	Wichita, Kansas
Flint, Michigan	Wilmington, Delaware
Fresno, California	Worcester, Massachusetts
Fort Wayne, Indiana	Youngstown, Ohio
Greensboro, North Carolina	
Harrisburg, Pennsylvania	
Jackson, Mississippi	

PHASE V

D. I. Y. Division

(Do It Yourself)

There is a need to move baggage, trunks, personal items, and the shipping public in need of this type of service finds it most difficult to obtain carriage of such goods.

Pick-up and/or delivery at today's prices make such a service a loser no matter what you charge. At each terminal, public needing this type of service can avail themselves of interstate movement by delivering and picking up at each end themselves or through a cartage company.

A special tariff will cover the movement of such goods and will move prepaid and paid.

Same cost factors would prevail with terminal cost at each end being higher because of tagging, rating and collecting. Replace cartage at each end by such increased terminal cost.

Estimated ratio 90%

Estimated volume per annum \$5 M after first complete year of operations

PHASE VI

Thrifty Service Division

There was available at R.E.A. a facility known as FAST SERVICE that consolidated shipments both by the land route and by air where packages going to the same consignee were consolidated under one bill of lading to eliminate duplicative minimum charges.

The concept was not utilized to a serious extent, nor were the packages properly consolidated.

This concept would accomplish the full job for movements to one consignee and would further accomplish the distribution job by combining shipments from one consignor to various consignees to eliminate the minimum shipment cost.

Charges for receiving, consolidating, manifesting and re-cartoning would be accomplished for an expeditious economic service to the shipping and receiving public - a true package concept at a saving and the division will operate in the low nineties.

Operating ratio 90%

Estimated volume - \$10 M after first complete year
of operations

PHASE VII

Air Express

As the terminal phases become actualities Air Express under the old guise, or as a forwarder would be instigated.

All pick-up and delivery work would be performed by contract with separate fleets in the various terminals.

Shipments would be consolidated for airlines and destination. All work would be accomplished on a percentage of the revenue.

Pick-up and Delivery (including re-delivery to airlines)

Pick-up	20%
Delivery	20%
Adm. & Insurance	5%
Communications, Forms, Etc.	3%
Sales	3%
Containers	4%
Air Lines	25%
Terminal	10%
Creditor	2%
	92%

Estimated volume per annum \$25 M after first complete year of operations

Recap of Phases

(Predicated on starting date - June 1)

First Year

<u>Phase</u>	<u>Type</u>	<u>Start-Up</u>	(In millions)
			<u>Estimated Annual Revenue</u>
I	REXCO	6/1/76	50
II	TOF	8/1/76	65
III	Freight	12/1/76	75
IV	Freight (2)	6/1/76	50
V	D.I.Y.	12/1/76	5
VI	Thrifty	12/1/76	10
VII	Air-Express	12/1/76	25

\$280 M after first full
year of operations

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OPERATIONS

START-UP AND NON-RECURRING COSTS

June 1976	Phase I Phase II	None Personnel (2 months) Travel Overhead	\$16,600 3,000 3,000	\$ 22,600
July 1976	Phase III, V, VI, VII	Executive Personnel (6 months) Clerical (6 months) Rents (6 months) District (6 months) Travel (6 months) Clerical (6 months) Adv. Budget (6 months) Misc. Stationery	96,000 18,000 18,000 50,000 15,000 18,000 120,000 100,000	435,000
October 1976		Rents (1 month) Furniture & Office Equipment Conveyors Managerial - Clerical Dock Impedimenta	160,000 140,000 250,000 100,000 40,000	690,000
May 1977	Phase IV, V, VI, VII	Rents (1 month) Furniture & Office Equipment Conveyors Managerial - Clerical Dock Impedimenta Misc. Stationery	210,000 180,000 300,000 150,000 60,000 150,000	1,050,000
TOTAL				\$2,197,000

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In addition, because of the R.E.A. posture, deposits or escrow funds will have to be provided for insurance, equipment and lease holds.

Estimated \$750,000 to \$1,000,000

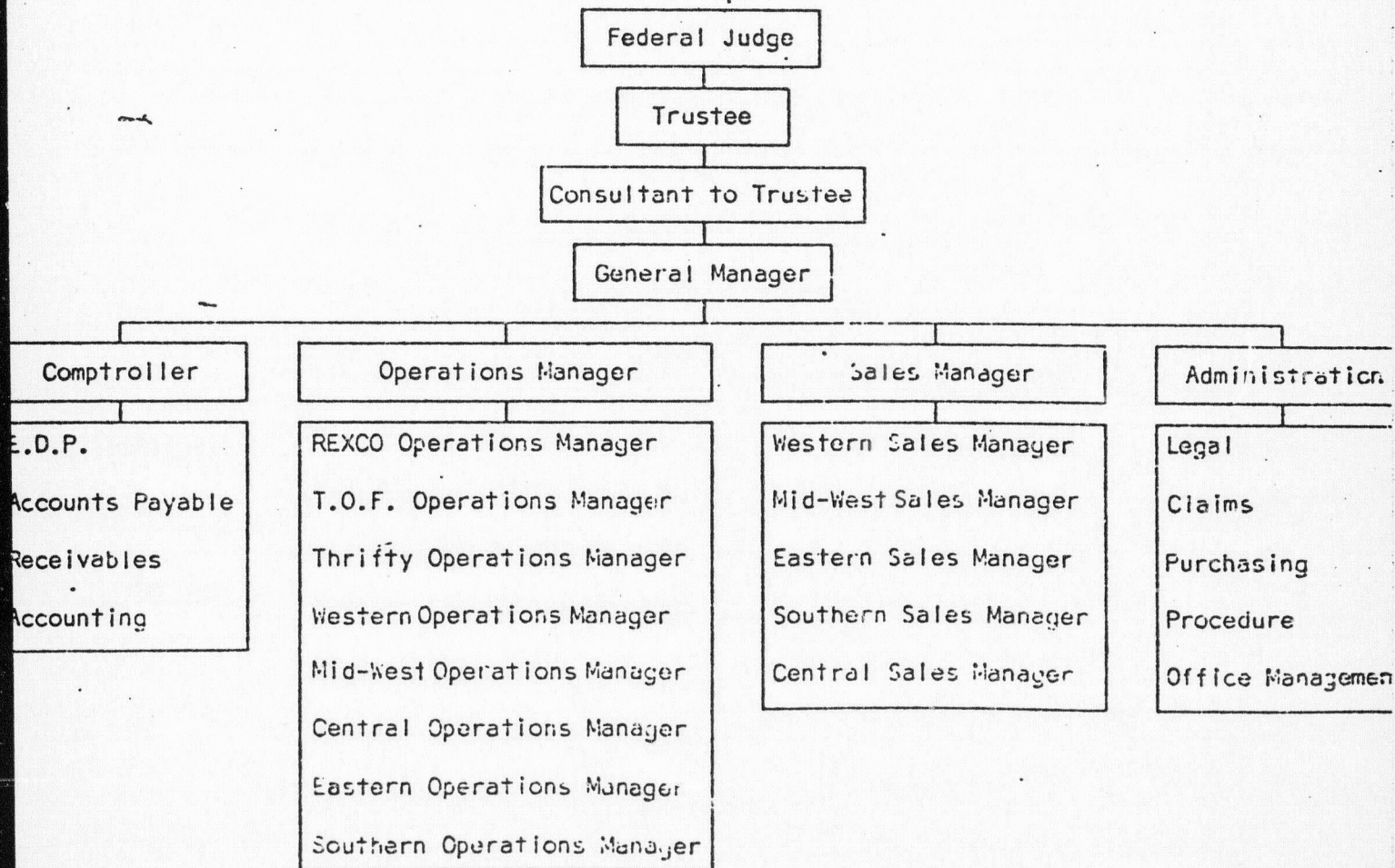
C
PERSONNEL

PERSONNEL

Until R.E.A. has been released from Chapter, the company will operate without the usual corporate titles.

The organizational arm at the offset would be sparse but sufficient to properly weld the future modus operandi into action on a pre-planned and integrated basis.

The table of organization would be as follows under Chapter II re-organization:



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At the outset the five categories would be necessary to organize their functions in the rehabilitated R.E.A., plus REXCO personnel.

Approximately ten clerical personnel would be needed at first. These preliminary figures are predicated on all pre-approval functions being handled directly by the Trustee's office and post-approval by the new arrangement.

Within 30 days the functions would be expanded so that the Regional Operating Managers and Regional Sales Managers would become activated.

T.O.F. personnel and management would also be activated. Total cadre of personnel within 60 days should be approximately 75.

For the next four months, all organizational work in the opening of twenty terminals will be accomplished. Facilities obtained, telephones installed, signage provided, cartage carriers contracted, operating personnel obtained and trained in new methods and procedures. Dock impedementia purchased and distributed. Equipment leased and all methods and standard operating procedure documented and disseminated.

Minimal crews will be established but sufficient to handle first impact of business. Personnel expansion would be documented and alerted.

Sales endeavor will commence at least 45 days before terminal openings.

Phase III - Estimated cadre of personnel:

Terminal Managers	20	
Supervisory	80	
Dock personnel	600	
P & D (contract)	500	
Office personnel	80	
Safety & Personnel Supervisors	10	(including REXCO)
Road Drivers (contract)	300	
	<u>1,590</u>	
Satellites (contract)	700	
	<u>2,290</u>	
General Office	100	
	<u>2,390</u>	

Phase IV

Terminal Managers	30
Supervisory	60
Dock personnel	500
P & D (contract)	400
Office personnel	60
Safety & Personnel Supervisors	8
Road Drivers (contract)	200
Maintenance Personnel	20
	<u>878</u>
Satellites (contract)	500
	<u>1,378</u>
General Office	60
	<u>2,438</u>

Recap

Direct R.E.A. employees	1,262
Contract	<u>2,600</u>
Total	<u>3,862</u>

Growth pattern indicates that from six months to one year the R.E.A. personnel should be approximately 3,000 and contract employees (of which many will be former R.E.A. employees) 4,000.

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D

MARKETING

MARKETING

Overall MARKETING will be headed up by a General Sales Manager, with Sales Managers of each of the operating entities.

REXCO
T.O.F.
Express (Air)
Thrifty (Consolidation & Distribution)

The General Sales Manager will have supervision over five Regional Sales Managers.

West
Mid-West
Central
Southern
Eastern

Each Regional Sales Manager will have the job of recruiting and supervision in his area. Of the twenty original terminals to be opened, original territories and terminals would be:

West

Denver
Los Angeles
Oakland-San Francisco

Mid-West

Chicago
Kansas City
Minneapolis-St. Paul
St. Louis

Central

Cleveland
Detroit
Pittsburgh

South

Atlanta
Dallas
Houston

South (cont.)

Miami
New Orleans

East

Baltimore
Boston
New York
Philadelphia
Washington

When the Phase II operation goes into effect, the following cities would be added to each region:

West

Phoenix
Portland
Sacramento
San Diego
Salt Lake City
Seattle, Washington

Mid-West

Little Rock
Milwaukee
Oklahoma City
Omaha

Central

Cincinnati
Columbus
Dayton
Indianapolis

South

Birmingham
Charlotte
Jacksonville
Knoxville
Louisville
Memphis
Nashville
San Antonio
Tampa

East

Albany
Buffalo
New Haven
Providence
Rochester
Norfolk
Richmond

As agency satellite terminals are opened, they will be geographically assigned.

SALES PERSONNEL - Express

All salesmen (Marketing Representatives) will be assigned set geographic areas and as remuneration will receive 2% of the line-haul revenue on freight originated in their area and 1% of line-haul revenue on freight destined to their area. Remuneration will cover all sales expense and car expense. Only that traffic which moves on the Express Division - Air, Highway or Rail, and not including volume shipments will generate revenue for the salesman.

Each man hired will be placed on a sixty-day drawing account with commissions applying on the draw.

Each man, before he starts in his territory, will be given an intensive Sales orientation and educational course in his home locale.

Each man will be required to make sales reports, plan his day, his week and his month.

Sales endeavor will be implemented by a hard-hitting novel advertising campaign that will strongly introduce the NEW EXPRESS COMPANY to the shipping public.

Innovative transportation methods, backed by a dedicated service, will repeatedly be emphasized in media, brochures, house organs and image. A NEW look will be given to the NEW EXPRESS COMPANY in a concentrated program of Identification, signage and fresh logo, implemented through stationery, freight bills, invoices and all other forms.

Constant incentive programs will be used to effectuate sales. As the family of Express agencies expands, the name will again become a by-word of respect in the transportation world.

Perhaps one of the greatest marketing tools that will be available to the sales organization is the fact that a more economical service by approximately 10% or better, will be available to the shipping public with comparable or better service.

The favorable labor-contract, as well as innovative paper-flow and collections procedure, will allow those savings to be passed on to the shipping public.

Whereas other forms of transportation, cannot economically handle smaller shipment, restrict numbers of cartons or have other barriers for handling the traffic. Express can and will handle this type of traffic at a more favorable rate level.

In again reviewing sales personnel compensation, it of course follows, can a person make a decent wage if properly applying himself? How can one know how many men can be hired to protect the eventuality of having too many or too few?

Projected revenues for the first full year of express operations indicates revenues of \$165 M. Historically, approximately 18% of the traffic would move off-line - on-line, or on-line - off-line, or off-line - off-line, so that (for round figures) \$135 M will be subject to the sales percentage of 2% outbound and 1% inbound (Avg. 1.5%) or \$2.025 M in sales commission. A goal of \$25,000 per man (including all expenses) should be set for a minimum standard. Dividing that standard into the total, indicates that for the fifty terminals that will be opened, it would take 81 men to man the marketing area as a direct SALES-Force.

Dispersion by size and territory, and bearing in mind the income goal, the following alignment is recommended.

First Group

Atlanta	2
Baltimore	2
Boston	2
Chicago	4
Cleveland	2
Dallas	2
Denver	2
Detroit	2
Houston	2
Kansas City	2
Los Angeles	5
Miami	2
Minneapolis	2
New Orleans	2
New York	6
Oakland	3
Philadelphia	3
Pittsburgh	2
St. Louis	2
Washington	2
	<u>51</u>

Second Group

30 cities - 1 each

As revenues increase, sales endeavor should be accelerated by the same percentage, by increasing force and splitting trade territories.

On agencies that are selected in addition to other charges accruing to them, they shall receive a 2% commission on all traffic originating in their city and moving via an express medium. This will not apply on volume moves, unless they are also duplicate agents for REXCO or T.O.F.

Commissions to agents apply only on non-company terminal areas.

General Sales Managers and Regional Sales Managers will be compensated on annualized basis, plus usual sales and travel expense, with equitable over-rides for performance.

All sales personnel will have the opportunity of participating in the over-all ESOP plan on a documented voluntary basis.

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E

CREDITORS

Classes of Creditors

Post-Chapter - those creditors whose indebtedness occurred after Chapter XI of the Federal Bankruptcy Act.

Pre-Chapter - those creditors whose debt against R.E.A. occurred before the bankruptcy.

Stockholders - Stockholders of the original holding company of R.E.A. and their involvement is only through stock purchase and they would have no possibility of recovery unless all Post and Pre-Chapter creditors have been paid in full.

Creditors in the Post-Chapter category must be disposed of first and thence those creditors in the Pre-Chapter category.

There are preferential creditors in each one of these two classes because of their type of claim.

CREDITORS

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At this writing there are no confirmed figures available to the consultant as to the status of either Post or Pre Chapter claims and, therefore, true scheduling of amortization of these claims falls into the conjecture category.

Unconfirmed, unverified figures have roughly dealt with these figures:

Post-Chapter:-

Employee Claims	\$ 7,000,000
Vendors - others	14,000,000
TOTAL	\$21,000,000

Pre-Chapter \$40,000,000

In previously handling settlement of claims through the usual Proof-of-Claim procedure, the consultant found that there was a startling percentage of the claims that were denied because of lack of documentary proof, duplication, mathematical error or completely spurious and capricious.

Unquestionably, the same situation must exist if prior experience be an indicator.

There is therefore two-fold reason (besides accomplishing the job correctly) in pursuit of this instant matter.

1. That all proper and authenticated creditors receive as much of their indebtedness as is possible, and as expeditiously as the circumstances permit.
2. That in the endeavor to make the Express Company a viable entity, that only that proper indebtedness be paid. To those thousands of men and women who are joining in this undertaking, this is the least that must be done to assist in that attempt.

Therefore perusal, clarification and cleansing become integral portions of this re-organization effort.

The basic plan calls for amortization of first the Post-Chapter claims.

Involved in those Post-Chapter claims are a series of Post-Chapter employee's claims. We hereby suggest as part of this plan that all employees involved in such claims will waive their rights individually without recourse to the Trustee and will look to clarification of their claims through REAEMCO. This will relieve the Post-Chapter claim-roster of roughly \$7 M.,

Liquidation of assets now in the final stages will hopefully cover the remaining Post-Chapter claims. If there remains a Post-Chapter residual of claims, those claims will be given preference on the formulae devised in this plan, viz. -

First Year	1% of gross revenue
Second Year	1% of gross revenue
Third Year	2% of gross revenue
Fourth Year	2% of gross revenue
Fifth Year	3% of gross revenue
Sixth Year	3% of gross revenue
Seventh Year	3% of gross revenue
Eighth Year	3% of gross revenue
Ninth Year	3% of gross revenue
Tenth Year	3% of gross revenue

After the second year of operations under the plan, a minimum pay-back of \$1 M will be assumed.

Monthly interest bearing depositories will be made under the formulae and the entire sum liquidation for debt amortization 60 days after the calendar year on an annual basis.

The right of accelerations of payment to the certified and authenticated creditors would be a portion of this plan.

The right of acceleration of payment in full of all claims under \$250, to reduce paper-flow and record-keeping also would be part of the plan.

Should monies become available within the first year of the plan, settlement in full on the 50% basis would be a part of the proposal, and each year thereafter on an increasing scale of 5% of the residual of each claim, for the following five years.

First Year	50% of residual
Second Year	55% of residual
Third Year	60% of residual
Fourth Year	65% of residual
Fifth Year	70% of residual
Sixth Year	75% of residual

In the event all creditor's claims have been completely amortized by the end of the sixth year or before, all former stock-holders in the former holding company, shall be entitled to exchange their stock into the new holding company on a one to ten reverse split.

If accomplished by the end of the -

- Seventh year a one to fifteen reverse split.
- Eighth year a one to twenty reverse split.
- Ninth year a one to twenty-five reverse split.
- Tenth year a one to thirty reverse split.

Creditors especially of the Post-Chapter class should give careful credence to this plan. Unless the temporary authority under which R.E.A. operated is perpetuated, there appears to be little monies that can be expected from the instant liquidation procedure.

The entire hope of recovery of monies lies in the continued and expanded operation of the Express Company.

With the labor organization willing to advocate unusual and startling departures from the standard LABOR CONTRACT, with innovative operational procedure, with ESOP (Employees Stock Ownership Plan) guaranteeing dedicated service and with the ability of moving traffic more economically, certainly the Creditors should endorse the PLAN whole-heartedly.

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As employees return to work they will voluntarily dedicate ten percent of their salary for the purchase of stock in the holding company. This stock will remain in a voting trust until creditors have been paid off under the plan. As it remains in the voting trust it will be considered preferred stock bearing 7% interest per annum.

The holding company, through the voting trust, will obtain funds up to \$3 M, less finder's fee, which will be diverted to the operating company as "start-up" funds.

Once operative, further funds will be needed as pre-payments for rent, insurance, utilities, telephone and E.D.P. equipment from cash-flow.

Monies for furniture, office equipment, dock impedimenta, conveyor systems and printed material will be needed, and are partially included in the start-up money.

The Revenue and Expense studies do not include depreciation or amortization of capital expenditures. Nor is there provision for interest or taxes on profit. No attempt has been made to set-up a reserve on bad debt.

Included in the General Office cost are estimates of Interim payments to attorneys, Trustee and accountants.

Start-up personnel cost and travel are included in 1976 and 1977 and warp the figures for the Express divisions until sufficient revenues can be obtained.

High advertising budget for media, public relations, logo and identification are included in the first three calendar years and thence cut to a normal budget.

Projections furnished herewith are:-

Financial Exhibit I - Revenue Projection-10 years. Growth pattern after 1978 is for a conservative range of from 2% to 4% per year which is about average rate increases per annum.

In this Exhibit is the first projection of amortization of creditor's claims. Pay back would be predicated on approved claims, plus any fair interest set by the court. That of course would be the maximum that creditors are entitled to.

Financial Exhibit II - Amortization of Post-Chapter and Pre-Chapter Debt.

Pay-back to creditors is predicated on reserving specified percentages of the monthly revenues and depositing in an interest bearing escrow fund monthly. Funds would be disposed of to creditors on an annualized basis, pro-rated on debt percentage to accumulated fund.

Cash pay-offs for full settlement of debt could be an integral part of the plan.

Amortization as amended from our first presentation, is as follows:-

Of Gross Revenue

First year	1%	Sixth year	3%
Second year	1%	Seventh year	3%
Third year	2%	Eighth year	3%
Fourth year	2%	Ninth year	3%
Fifth year	3%	Tenth year	3%

Financial Exhibit III

Pro-forma Revenue and Expense Report of all R.E.A. entities-1976. Start-up personnel warps proper financial picture and operation in 1976 would be at a loss.

Financial Exhibit IV

Pro-forma Revenue and Expense Report of all R.E.A. entities - 1977.

Continuation of terminal openings and organizational personnel causes Express costs to run high.

Financial Exhibit V

The revenue and expenses for 1978 and the first year that all contemplated terminals would be operational.

Financial Exhibit VI

Recap of REXCO revenue and expenses for ten year period - 1976-1985.

Financial Exhibit VII

Recap of T.O.F. revenue and expenses for ten year period - 1976-1985.

Financial Exhibit VIII

Recap of other Express entities revenue and expenses for ten year period - 1976-1985.

Financial Exhibit IX

Consolidated recap of all R.E.A. entities - Revenue and Expense Pro-forma Projection - 1976-1985.

Variances year to year, other than the first three years, are predicated mainly upon wage adjustments on the 95% formulae.

Financial Exhibits X through XIX

Presents a cash-flow analysis of the operation for a ten year period. Operating close to a 95% ratio and with a growth pattern of approximately 3½% per year, the study indicates that all Post-Chapter and Pre-Chapter creditors would be cleared by the end of the sixth year. At this time of course, chapter proceedings could come to an end and ownership divert to REAEMCO, the holding company.

Financial Exhibit XX

Indicates capital expenditures in the first years of the plan. Note is made that if monies are available from governmental or other sources, the Phase in opening thirty terminals will be with R.E.A. equipment.

Financial Exhibit XXI through XXX

Contain Pro-forma Balance Sheets. Included in this Exhibit are capital expenditures, depreciation, dividends, and disposal of creditor's proof of claims. Beginning in the seventh year also included are Tax Costs. Until that time it appears that loss-carry-forward should negate payment of Federal Taxes.

Financial Exhibit #1
Revenue Projection 1976 thru 1985
(In millions)

	1976	'77	'78	'79	'80	'81	'82	'83	'84	'85
REXCO (4-1-76)	18,700	25,000	50,000	52,000	53,160	54,822	55,918	57,595	59,322	61,101
T.O.F. (7-1-76)	12,200	32,500	65,000	67,600	69,628	70,928	71,703	73,854	76,069	78,351
EXPRESS (10-1-76)	5,475	75,000	125,000	130,000	134,200	136,884	139,621	143,808	148,122	152,565
THRIFTY (10-1-76)	747	5,000	10,000	10,400	10,712	10,926	11,131	11,514	11,859	12,215
D.I.Y.	18	2,000	5,000	5,200	5,356	5,473	5,576	5,691	5,861	6,036
AIR EXPRESS	1,500	12,500	25,000	26,000	26,780	27,315	27,861	28,418	29,243	30,120
TOTALS	38,640	152,000	280,000	291,200	299,836	306,348	311,810	320,880	330,476	340,388
Creditor's Participation	1%	1%	2%	2%	3%	3%	3%	3%	3%	3%
Dollar Amount To Creditors	386	1,520	5,600	5,824	8,995	9,190	9,354	9,626	9,914	10,212

Financial Exhibit II

Cumulative Amortization of Post-Chapter, thence Pre-Chapter Debt.

	<u>Percent of Revenue</u>	<u>Annual</u>	<u>Cumulative</u>
1. 1976	1%	386,400	386,400
2. 1977	1%	1,520,000	1,906,400
3. 1978	2%	5,599,600	7,506,000
4. 1979	2%	5,824,200	13,330,200
5. 1980	3%	8,995,080	22,295,280
6. 1981	3%	9,190,440	31,485,720
7. 1982	3%	9,354,300	40,840,020
8. 1983	3%	9,626,400	50,466,420
9. 1984	3%	9,914,280	60,380,700
10. 1985	3%	10,211,640	70,592,340

Unofficially it appears that residual due post-chapter creditors after payment of liquidation proceeds and waiving of employees claims, predicated on this plan being motivated, would be approximately \$2,500,000.

Pre-chapter creditors ranges in the \$40 M figure, therefore, including simple interest, creditors could be paid off at the end of the eighth year in full.

It is further suggested in this plan that at the time all creditors, post-chapter and pre-chapter have been paid that stock holders of the former R.E.A. holding company receive stock on a reverse split of one to ten, in the new holding company REAEMCO.

Further clarification on this subject is shown in the section with the nomenclature - "creditors".

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Financial Exhibit III

Pro-Forma R & E - 1976
(in millions)

	REXCO		T.O.F.		Express (Combined)		Consolidated	
Revenues	18,700		12,200		7,740		38,640	
Expense								
Salaries	374	- 2%	150	- 1.22%	1,874	- 24.21%	2,398	- 6.21%
H&W, Pension, PRT	75	.4	30	.61	375	4.84	480	1.24
Operating Supplies	74	.39	24	.19	353	4.56	451	1.17
Taxes (other than payroll)	56	.29	18	.14	27	.35	101	.26
Insurance	1,870	10.0	305	2.50	276	3.56	2,451	6.35
Communications	280	1.50	183	1.50	143	1.85	606	1.57
Equipment Rent	935	5.0	1,222	10.00	387	5.00	2,544	6.59
Purchased Transp.	11,594	62.0	8,174	67.00	4,180	54.00	23,948	61.98
Rents	30	.16	12	.10	960	1.24	1,002	2.59
Commissions	1,122	6.0	366	3.00	196	2.50	1,684	4.36
General Office	935	5.0	732	6.00	987	12.75	2,654	6.88
Total	17,345	92.74	11,216	92.26	9,758	114.86	38,319	99.20
Creditors	<u>187</u>	<u>1.0</u>	<u>122</u>	<u>1.0</u>	<u>77</u>	<u>1.0</u>	<u>386</u>	<u>1.0</u>
Total Expenses	17,532	93.74%	11,338	93.26%	9,835	115.86%	38,705	100.20%
Profit (loss) Before Taxes	1,168	6.26%	862	6.74%	(2,095)	(15.86%)	(155)	(.4%)

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Financial Exhibit IV

Pro-Forma R & E - 1977
(in millions)

	REXCO		T.O.F.		Express		Consolidated	
Revenue	25,000		32,500		94,500		152,000	
Expense								
Salaries	450	- 1.80%	243	- .75%	19,041	- 20.15%	19,734	- 12.98%
H & W, Pension	90	.36	49	.15	3,808	4.03	3,947	2.60
Operating Supplies	112	.45	114	.35	709	.75	935	.61
Taxes(other than payroll)	88	.35	65	.20	236	.25	389	.25
Insurance	1,875	7.50	813	2.50	3,071	3.25	5,759	3.79
Communications	438	1.75	406	1.25	992	1.05	1,836	1.21
Equipment Rent	1,250	5.00	3,250	10.00	4,725	5.00	9,225	6.07
Purchased Trans.	15,500	62.00	21,775	67.00	51,030	54.00	88,305	58.10
Rents	30	.12	65	.20	992	1.05	1,087	.72
Commissions	1,500	6.00	813	2.50	2,362	2.50	4,675	3.07
General Office	1,125	4.50	1,706	5.25	5,434	5.75	8,265	5.44
Totals	22,458	89.8	29,299	90.15	92,400	97.78	144,157	94.84
Creditors	<u>250</u>	<u>1.00</u>	<u>325</u>	<u>1.00</u>	<u>945</u>	<u>1.00</u>	<u>1,520</u>	<u>1.00</u>
Grand Total	22,708	90.8%	29,624	91.15%	93,345	98.78%	145,677	95.84%
Profit (before taxes)	2,292	9.2%	2,876	8.85%	1,155	1.22%	6,323	4.16%

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Financial Exhibit V

Pro-Forma R & E - 1978
(in millions)

Revenue	REXCO		T.O.F.		Express		Consolidated	
	50,000		65,000		165,000		280,000	
Expense								
Salaries	875	- 1.75%	390	- .60%	30,608	- 18.55%	31,873	- 11.38%
H & W, Pension	75	.15	78	.12	6,122	3.71	6,275	2.24
Operating Supplies	375	.75	553	.85	1,733	1.05	2,661	.95
Taxes - other	175	.35	228	.35	330	.20	733	.26
Insurance	3,000	6.00	1,625	2.50	4,455	2.70	9,080	3.24
Communications	775	1.55	813	1.25	1,667	1.01	3,255	1.16
Equipment Rent	2,500	5.00	6,500	10.00	8,250	5.00	17,250	6.16
Purchased Transp.	32,500	65.00	44,850	69.00	89,100	54.00	166,450	59.45
Rents	40	.08	65	.10	1,403	.85	1,508	.54
Commissions	3,500	7.00	1,788	2.75	3,713	2.25	9,001	3.21
General Office	2,200	4.40	3,153	4.85	4,125	2.50	9,478	3.39
Total	46,015	92.03%	60,043	92.37%	151,506	91.82%	257,564	91.99%
Creditors	<u>1,000</u>	<u>2.00</u>	<u>1,300</u>	<u>2.00</u>	<u>3,300</u>	<u>2.00</u>	<u>5,600</u>	<u>2.00</u>
Grand Total	47,015	94.03%	61,343	94.37%	154,806	93.82%	263,164	93.99%
Profit (B.F.T.)	3,485	5.97	4,307	5.63	11,844	6.18	16,836	6.01

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Financial Exhibit VI

Recap of Pro-Forma (R & E)
1976 to 1985

REXCO (in millions)

	Revenue	Operating Ratio	Profit	Creditors
1976	18,700	93.74	1,168	187
1977	25,000	90.80	2,292	250
1978	50,000	94.03	3,485	1,000
1979	52,000	95.29	2,449	1,040
1980	53,160	96.49	1,866	1,595
1981	54,822	96.61	1,804	1,645
1982	55,918	95.89	2,298	1,676
1983	57,595	94.21	3,335	1,728
1984	59,322	97.41	2,130	1,779
1985	61,101	95.86	2,530	1,833
Total	487,618		23,357	12,733
Avg.	48,761	95.03	2,335	1,273

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Financial Exhibit VII

Recap of Pro-Forma (R & E)
1976 to 1985

T.O.F.

	Revenue	Operating Ratio	Profit	Creditors
1976	12,200	93.74	1,168	187
1977	32,500	91.15	2,876	325
1978	65,000	94.37	4,307	1,300
1979	67,600	95.28	3,190	1,352
1980	69,628	94.79	3,628	2,089
1981	70,928	97.21	1,979	2,128
1982	71,703	95.16	3,470	2,151
1983	73,854	94.62	3,973	2,216
1984	76,069	95.65	3,309	2,282
1985	78,351	94.22	4,529	2,351
Totals	617,833		32,429	16,381
Avg.	55,783	94.61	3,242	1,638

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Financial Exhibit VIII

Recap of Pro-Forma
1976 to 1985Express Entities
(in millions)

	Revenue	Operating Ratio	Profit	Creditors
1976	7,740	115.86	(1,228)	77
1977	94,500	98.78	1,153	945
1978	165,000	93.82	10,197	3,300
1979	171,600	94.21	9,936	3,432
1980	177,048	96.10	6,905	5,311
1981	180,598	94.62	9,716	5,418
1982	184,189	96.22	6,962	5,526
1983	189,431	94.01	11,347	5,683
1984	195,085	97.80	4,292	5,853
1985	200,936	95.15	9,745	6,028
Totals	1,566,127		69,025	41,573
Avg.	156,610	97.66	6,902	4,157

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Financial Exhibit IX

R.E.A.

Consolidated Recap of R & E Pro-Formas
1976 to 1985

	<u>Revenue</u>	<u>Operating Ratio</u>	<u>(Before Taxes) Profit</u>	<u>Creditors</u>
1976	38,640	100.4	(155)	386
1977	152,000	95.84	6,323	1,520
1978	280,000	93.97	16,884	5,600
1979	291,200	94.65	15,579	5,824
1980	299,836	95.85	12,443	8,995
1981	306,348	95.59	13,510	9,190
1982	311,810	95.91	12,753	9,354
1983	320,880	94.17	18,707	9,626
1984	330,476	97.05	9,749	9,914
1985	340,388	95.06	16,815	10,212

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Financial Exhibit X

R.E.A.
Cash-Flow Analysis
1976

	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available:			
(1) Cash in Bank	\$ 250,000	\$ 169,500	\$ 344,000
(1) Certificates of Deposit	2,500,000	2,000,000	1,000,000
Receipts	6,233,000	12,000,000	16,545,641
Total	\$ 8,983,000	\$ 14,169,500	\$ 17,890,641
Cash Requirements:			
Expenses	6,611,000	12,773,000	17,895,000
(2) Creditor's Fund-inc. exp.	(62,333)	(120,000)	(165,466)
(3) Accrual for Dividends	52,500	52,500	52,500
(4) Finder's Fee	150,000		
Total	\$ 6,813,500	\$ 12,825,500	\$ 17,947,500
Available Funds:	2,169,500	1,344,000	(56,859)

- (1) \$3,000 up-front money - \$250,000 in bank account, balance until needed in C.D.'s
- (2) 1% of Revenue dedicated to Escrow fund for creditors
- (3) 1.75% accrual of \$3,000 for dividend
- (4) Non-recurring fee to Finder of up-front money

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Financial Exhibit XI

R.E.A.
Cash-Flow Analysis
1977

	<u>1st</u> <u>Quarter</u>	<u>2nd</u> <u>Quarter</u>	<u>3rd</u> <u>Quarter</u>	<u>4th</u> <u>Quarter</u>
Cash Available				
Cash in Bank & C.D.'s	\$ (56,859)	\$ 1,094,784	\$ 1,808,393	\$ 3,192,984
Receipts	27,636,362	41,454,543	34,545,452	34,545,452
Total:	\$ 27,579,503	\$42,549,327	\$ 36,353,845	\$ 37,738,436
Cash Requirements				
Expenses	26,432,219	40,688,434	33,108,361	33,108,361
Creditor's Fund	(276,363)	(414,545)	(345,454)	(345,454)
Accrual for Dividends	52,500	52,500	52,500	52,500
Total:	\$ 26,484,719	\$ 40,740,934	\$ 33,160,861	\$ 33,160,861
Available Funds:	1,094,784	1,808,393	3,192,984	4,577,575

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Financial Exhibit XII

R.E.A. Cash-Flow Analysis 1978

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 577,575	\$ 795,200	\$ 701,232	\$ 447,500
C.D.'s	4,000,000	4,000,000	6,000,000	3,000,000
Interest on C.D.'s	93,333	93,333	105,000	52,500
Receipts	55,999,998	83,999,970	65,333,331	74,666,640
Total:	\$60,670,906	\$88,888,503	\$72,139,563	\$78,166,640
Cash Requirements				
Expenses	52,623,190	78,934,771	61,139,563	70,164,241
Creditor's Fund	(1,052,464)	(1,679,999)	(1,306,667)	(1,493,333)
Accrual for Dividends	52,500	52,500	52,500	52,500
Purchase of Equipment(1)	3,200,000	(2) 3,200,000	(3) 7,500,000	(4) 4,000,000
Total:	\$55,875,690	\$82,187,271	\$68,692,063	\$74,216,741
Available Funds:	4,795,200	6,701,232	3,447,500	3,949,899
Surplus funds dedicated to purchase trailer equipment				
(1) 400 trailers	(2) 400 trailers	(3) 800 trailers	(4) 500 trailer	
				Total - 2,100

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Financial Exhibit XIII

R.E.A.
Cash-Flow Analysis
1979

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 949,899	\$ 565,735	\$ 647,518	\$ 826,418
C.D.'s	3,000,000	1,500,000	5,500,000	9,000,000
Interest on C.D.'s	52,500	26,250	96,250	157,500
Receipts	58,239,999	87,359,998	67,946,665	77,653,332
Total:	\$62,242,398	\$89,451,983	\$74,190,433	\$87,637,250
Cash Requirements				
Expenses	55,124,163	83,251,965	64,311,515	73,497,932
Creditor's Fund	(1,275,028)	(1,653,724)	(1,358,933)	(1,553,067)
Accrual on Dividends	52,500	52,500	52,500	52,500
Capital Expenditures (1) 5,000,000				
Total:	\$60,176,663	\$83,304,465	\$64,364,015	\$73,550,432
Available Funds:	2,065,735	6,147,518	9,826,418	14,086,818

Financial Exhibit XIV

R.E.A.
Cash-Flow Analysis
1980

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 586,818	\$ 759,207	\$ 717,740	\$ 918,710
C.D.'s	13,500,000	16,000,000	20,000,000	21,000,000
Interest	236,250	280,000	350,000	367,500
Receipts	59,967,198	89,952,597	69,963,131	79,949,864
Totals:	\$74,290,266	\$106,991,804	\$91,030,871	\$102,236,074
Cash Requirements				
Expenses	57,478,559	86,221,564	69,059,661	76,631,944
Creditor's Fund	(1,799,016)	(2,586,587)	(2,098,894)	(2,398,496)
Accrual on Dividends	52,500	52,500	52,500	52,500
Total:	\$57,531,059	\$86,274,064	\$69,112,161	\$ 76,684,444
Available Funds:	16,759,207	20,717,740	21,918,710	25,551,630

Note: Up to the end of 1980 - \$22,325 has been paid to creditors other than liquidation monies. Of funds available \$20 M further should be paid for acceleration of this indebtedness, leaving a debt of approximately \$8 M including 5% interest.

Financial Exhibit XV

R.E.A.
Cash Flow Analysis
1981

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	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 551,630	\$ 638,620	\$ 779,105	\$ 989,996
C.D.'s	25,000,000	8,000,000	12,000,000	15,000,000
Interest	437,500	140,000	210,000	262,500
Receipts	61,269,600	91,904,400	71,481,200	81,692,800
Totals:	87,258,730	100,683,020	84,470,305	97,945,296
Cash Requirements				
Expenses	58,567,610	87,851,415	68,427,809	78,335,225
Creditor's Fund	(1,838,088)	(2,757,132)	(2,144,641)	(2,480,784)
Accrual of Dividends	52,500	52,500	52,500	52,500
Accelerated Payment To Creditors	20,000,000			
Totals:	\$78,620,110	\$87,903,915	\$68,480,309	\$78,387,725
Available Funds:	8,638,620	12,779,105	15,989,996	19,557,571

Reserve for creditors for 1981 of \$9,190, plus \$20 M acceleration makes a total of \$51,515,000 in payment of Pre & Post Chapter Creditor's Debt. .

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Financial Exhibit XVI

R.E.A.
Cash-Flow Analysis
1982

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 557,571	\$ 619,944	\$ 822,370	\$ 851,390
C.D.'s	19,000,000	9,500,000	5,000,000	3,500,000
Interest	332,500	166,250	87,500	61,250
Receipts	62,361,999	93,542,998	72,755,665	83,147,322
Totals:	82,252,070	103,829,192	78,665,535	87,559,962

Cash Requirements

Expenses	58,520,533	86,889,799	67,507,287	77,243,718
Dividend Stockholder's	1,890,860	2,806,290	2,182,669	2,500,736
Reserve for Taxes	1,720,733	3,310,733	2,624,189	3,907,224
Capital Expenditures(1)	10,000,000	(2) 5,000,000	(3) 2,000,000	(4) 2,000,000
Totals:	\$72,132,126	\$98,006,822	\$74,314,145	\$85,651,738

Available Funds:	10,119,944	5,822,370	4,351,390	1,908,224
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(1) Purchase 1,000 trailers (2) Down payment property (3) Property (4) Property

64

Financial Exhibit XVII

R.E.A.
Cash-Flow Analysis
1983

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 908,224	\$ 696,116	\$ 619,444	\$ 579,493
C.D.'s	1,000,000	1,500,000	1,500,000	1,000,000
Interest	17,500	26,250	26,250	17,500
Receipts	64,178,000	96,264,000	74,872,000	85,568,000
Totals:	66,103,724	98,486,366	77,017,694	87,164,993
Cash Requirements				
Expenses	59,226,778	88,833,773	69,009,522	78,868,025
Dividend	1,206,719	1,818,035	1,497,440	1,711,360
Reserve for Taxes	2,474,111	3,715,114	2,931,239	3,349,988
Capital Expenditure (1)	1,000,000	2,000,000	2,000,000	1,000,000
Totals:	\$63,907,608	\$96,366,922	\$75,438,201	\$84,929,373
Funds Available	\$ 2,196,116	\$ 2,119,444	\$ 1,579,493	\$ 2,235,620

(1) Down payment on property

Financial Exhibit XVIII

R.E.A.
Cash-Flow Analysis
1984

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	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 735,620	\$ 960,489	\$ 561,088	\$ 659,854
C.D.'s	1,500,000	3,000,000	6,000,000	8,000,000
Interest	26,250	52,500	105,000	140,000
Receipts	66,095,199	99,142,798	77,111,065	88,126,929
Totals:	68,357,069	103,155,787	83,777,153	96,926,763
Cash Requirements				
Expenses	62,162,581	93,243,586	72,502,945	82,865,829
Dividend	660,952	991,429	771,110	881,269
Reserve for Taxes	1,573,047	2,359,684	1,843,244	2,104,441
Totals:	\$64,396,580	\$ 96,594,699	\$75,117,299	\$85,851,539
Funds Available:	\$ 3,960,489	\$ 6,561,088	\$ 8,659,854	\$11,075,244

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Financial Exhibit XIX

R.E.A. Cash-Flow Analysis 1985

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>
Cash Available				
Cash in Banks	\$ 575,244	\$ 821,480	\$ 840,007	\$ 914,952
C.D.'s	10,500,000	10,000,000	10,000,000	10,000,000
Interest	183,750	175,000	175,000	175,000
Receipts	68,077,599	102,112,870	79,423,866	90,770,132
Totals:	79,336,593	113,112,870	90,438,873	101,920,084
Cash Requirements				
Expenses	62,672,165	94,008,440	73,166,894	83,562,887
Dividend	680,775	1,021,163	794,238	907,701
Accrual for Taxes	2,162,173	3,243,260	2,502,789	2,882,898
Capital Expenditure	(1) 3,000,000	(2) 4,000,000	(3) 3,000,000	(4) 4,000,000
Totals:	\$ 68,515,113	\$102,272,863	\$ 79,463,921	\$ 91,353,486
Funds Available	\$10,821,480	\$10,840,007	\$10,974,952	\$10,566,598

(1) Property (2) 400 Trailers (3) Property (4) 400 Trailers

67.

Financial Exhibit XX

Capital Expenditures

Purchase of City Equipment - Second Phase - 30 cities

*300 City Straight Jobs - Bodies @ \$9,500 each	\$2,850,000
*120 City Tractors @ \$8,000 each	960,000
*500 Trailers - 45 ft. high cube @ \$8,500 each	4,250,000
**300 Typewriters @ \$950 average	285,000
**400 Desks @ \$300 average	120,000
**500 Chairs @ \$65 average	32,500
**Misc furnitures, bookcases, i.e.	70,000
**Dock equipment - carts, wheelers, johnson bars and misc.	200,000
**Conveyors (basic)	550,000
Total	9,317,500
*If D.O.T. money is available	8,060,000
From operating funds	1,257,500

Purchase trailers on pre-planned basis from cash surplus. After creditor's debt has been amortized, build terminals with down payments balance including interest comparable to rental payments.

**Included in monthly expenses as projected

Financial Exhibit XXI
Consolidated R.E.A. Pro-forma

68

Balance Sheet
As At December 31,
1976

ASSETS

Current Assets

Cash	\$ 371,538
Accounts Receivable	3,220,000
Prepaid Expenses	576,820
Insurance Deposit	500,000

Total Current Assets 4,668,358

Property - Equipment

Furniture, Dock Impedimentia	466,580
Less Depreciation	<u>4,665</u>
	461,915

\$5,130,273

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 649,994
With-holding Tax, i.e.	162,491
Estimated Claims	126,495
Accrued-Due to Creditors	347,799
Accrued Dividend	157,500
Accrued Expenses	<u>742,853</u>

Total Current Liabilities 2,187,132

REAEMCO Advance	3,000,000
Retained Earnings	(56,859)

2,943,141

\$5,130,273

Financial Exhibit XXII

Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1977

69

ASSETS

Current Assets

Cash	\$ 725,000
Certificates of Deposit	4,000,000
Prepaid Expenses	978,423
Insurance Deposit	850,000
Accounts Receivable	7,875,000
	<u>14,428,423</u>

Property - Equipment

Furniture	507,500
Dock equipment	750,000
	<u>1,257,500</u>
Less Depreciation	88,025
	<u>1,169,475</u>

\$15,597,898

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 2,825,461
With-holding Tax, i.e.	2,397,528
Estimated Claims	425,250
Creditor Accrual	945,000
Dividend Accrual	210,000
Accrued Expenses	4,849,659
	<u>11,652,898</u>

REAEMCO

Retained Earnings

3,000,000
945,000

3,945,000

\$15,597,898

Financial Exhibit XXIII

Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1978

70

ASSETS

Current Assets

Cash	\$ 1,972,827
Certificates of Deposit	3,000,000
Prepaid Expenses	1,245,717
Insurance Deposit	1,100,000
Accounts Receivable	<u>13,750,000</u>
	21,068,544

Property - Equipment

Furniture	557,500
Dock Equipment	864,325
Trailers	<u>17,900,000</u>
	19,321,825

Less Depreciation	<u>1,037,182</u>
	18,284,643

\$39,353,187

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 4,173,519
With-holding Tax, i.e.	4,227,815
Estimated Claims	742,500
Creditor's Accrual	3,500,000
Dividend Accrual	210,000
Accrued Expenses	<u>10,909,353</u>
	23,563,187

REAEMCO	3,000,000
Retained Earnings	<u>12,790,000</u>

15,790,000

\$39,353,187

Financial Exhibit XXIV

Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1979

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ASSETS

Current Assets

Cash	\$ 1,747,286
Certificates of Deposit	13,500,000
Prepaid Expenses	1,365,424
Insurance Deposit	1,200,000
Accounts Receivable	24,337,829
	<u>42,150,539</u>

Property - Equipment

Furniture	597,625
Dock Equipment	1,250,028
Trailers	23,400,000
	<u>25,247,653</u>

Less Depreciation	2,019,122
	<u>23,228,531</u>

\$65,379,070

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 4,642,129
With-holding Tax, i.e.	4,497,118
Estimated Claims	769,044
Creditors' Accrual	5,824,000
Dividend Accrual	210,000
Accrued Expenses	18,071,779
	<u>34,014,070</u>

REAEMCO	3,000,000
Retained Earnings	28,365,000

31,365,000

\$65,379,070

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Financial Exhibit XXV

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Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1980

ASSETS

Current Assets

Cash	\$ 1,559,726
Certificates of Deposit	25,000,000
Prepaid Expenses	1,427,586
Insurance Deposit	1,350,000
Accounts Receivable	24,986,333
	<u>54,323,645</u>

Property - Equipment

Furniture	619,850
Dock Equipment	1,340,775
Trailers	21,800,000
	<u>23,760,625</u>

Less Depreciation	<u>1,900,850</u>
	<u>21,859,775</u>

\$76,183,420

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 4,268,112
With-holding Tax, i.e.	5,028,510
Estimated Claims	694,114
Creditor's Accrual	8,995,000
Dividend Accrual	210,000
Accrued Expenses	<u>13,223,684</u>
	<u>32,419,420</u>

REAEMCO	3,000,000
Retained Earnings	40,764,000

43,764,000

\$76,183,420

Financial Exhibit XXVI

Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1981

74

ASSETS

Current Assets

Cash	\$ 1,614,725
Certificates of Deposit	19,000,000
Prepaid Expenses	1,514,780
Insurance Deposit	1,400,000
Accounts Receivable	<u>37,417,720</u>
	60,947,225

Property - Equipment

Furniture	557,855
Dock Equipment	1,206,678
Trailers	<u>20,140,000</u>
	21,904,533

\$82,851,758

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 4,396,142
With-holding Tax, i.e.	5,274,889
Estimated Claims	694,114
Creditor's Accrual	29,190,000
Dividend Accrual	210,000
Accrued Expenses	<u>5,823,613</u>
	45,588,758

REAEMCO	3,000,000
Retained Earnings	34,263,000

37,263,000

\$82,851,758

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Financial Exhibit XXVII
Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1982

ASSETS

Current Assets

Cash	\$ 2,164,510
Certificates of Deposit	12,000,000
Prepaid Expenses	1,635,452
Deposits	1,500,000
Accounts Receivable	31,181,000
	<u>55,480,962</u>

Property - Equipment

Furniture	503,870
Dock equipment	1,103,180
Trailers	28,126,000
	<u>29,733,050</u>

Depreciation	2,378,644
	<u>27,354,406</u>

Land	4,000,000
Buildings	25,000,000
	<u>56,354,406</u>

\$111,835,368

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 4,142,583
With-holding Tax, i.e.	5,468,515
Estimated Claims	623,620
Reserve for Taxes	11,562,789
Accrued Expenses	27,825,456
Interest Due 1 year	1,600,000
Realty Due in 1 year	2,000,000
	<u>53,222,963</u>

Long Term Debt	
9 year realty	18,000,000

REAENCO	3,000,000
Retained Earnings	37,612,405
(After Dividend \$9,380,595)	<u>40,612,405</u>

\$111,835,368

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Financial Exhibit XXVIII
Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1983

ASSETS

Current Assets

Cash	\$ 1,200,464
Certificates of Deposit	1,000,000
Prepaid Expenses	1,725,450
Deposits	1,500,000
Accounts Receivable	32,080,000
	<u>37,505,914</u>

Property - Equipment

Furniture	678,725
Dock Equipment	1,890,000
Trailers	25,313,400
	<u>27,882,125</u>
Depreciation	2,230,570
	<u>25,651,555</u>
Land	6,000,000
Buildings	45,000,000
	<u>51,000,000</u>
Depreciation	1,666,666
	<u>49,333,333</u>
	<u><u>\$112,490,802</u></u>

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 3,278,564
With-holding Tax	5,725,825
Estimated Claims	641,762
Reserve for Taxes	8,573,216
Accrued Expenses	4,277,584
Interest Due 1 year	2,960,000
Realty Due 1 year	3,700,000
	<u>29,156,951</u>

Long Term Realty

Long Term Realty	30,300,000
REAEMCO	3,000,000
Retained Earnings	50,033,851
(After Dividend \$6,233,554)	<u>53,033,851</u>

\$112,490,802

Financial Exhibit XXIX

Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1984

ASSETS

Current Assets

Cash	\$ 856,728
Certificates of Deposit	1,500,000
Prepaid Expenses	1,750,000
Deposits	1,500,000
Accounts Receivable	33,047,600
	<u>38,654,328</u>

Property - Equipment

Furniture	625,555
Dock Equipment	1,738,000
Trailers	23,288,000
	<u>25,651,555</u>

Depreciation	2,052,124
	<u>23,599,431</u>

Land	6,000,000
Buildings	43,333,334
	<u>49,333,334</u>

Depreciation	1,869,110
	<u>47,464,224</u>

\$109,717,983

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 3,192,418
With-holding Tax, i.e.	5,847,918
Estimated Claims	660,954
Reserves for Taxes	3,964,182
Accrued Expenses	3,268,502
Interest Due 1 year	2,424,000
Realty Due 1 year	3,700,000
	<u>23,057,974</u>

Long Term Debt-Realty

Long Term Debt-Realty	27,000,000
REAEMCO	3,000,000
Retained Earnings	56,660,009
(After Dividend \$3,403,760)	<u>59,660,009</u>

\$109,717,983

Financial Exhibit XXX

Consolidated R.E.A. Pro-forma

Balance Sheet
As At December 31,
1985

ASSETS

Current Assets

Cash	\$ 1,476,082
Certificates of Deposit	10,000,000
Prepaid Expenses	1,605,825
Deposits	1,400,000
Accounts Receivable	34,038,800
	<u>48,520,707</u>

Property - Equipment

Furniture	563,000
Dock Equipment	1,925,000
Trailers	29,960,000
	<u>32,448,000</u>

Less Depreciation	<u>2,595,840</u>
	29,852,160

Land	8,000,000
Buildings	<u>59,900,000</u>
	67,800,000

Depreciation	<u>3,986,666</u>
	63,913,334

\$142,286,201

LIABILITIES

Current Liabilities

Accounts Payable-Trade	\$ 3,046,810
With-holding Tax, i.e.	5,978,440
Estimated Claims	680,776
Reserve for Taxes	4,208,614
Accrued Expenses	7,467,429
Interest Due 1 year	3,544,000
Realty Due 1 year	<u>4,400,000</u>
	29,326,069

Long Term Debt-Realty	39,900,000
-----------------------	------------

REAEMCO	3,000,000
Retained Earnings	<u>70,060,132</u>
(After Dividend \$3,403,877)	73,060,132

\$142,286,201

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Handwritten text in a large, stylized script, possibly a cursive or calligraphic style, running vertically down the left side of the page.

Transcript of June 23, 1976, Hearing Before
Judge Galgay on the Sale of the Operating
Authorities; Testimony of Arthur Olick, Esq.

1
2 REA

3 Price, Waterhouse themselves and the gentle-
4 man who prepared that schedule and who
5 testified will be here later this after-
6 noon.

7 I think those questions properly
8 belong to him and not an attorney who must
9 make an assumption on what somebody else
10 had in mind.

11 THE JUDGE: Overruled.

12 Proceed.

13 A What would you want me to tell?

14 Q I think the judge's suggestion was
15 helpful.

16 If you will indicate the significance
17 of the four dates and the amounts of money shown
18 depending on which of the four dates was chosen
19 as the date of rejection of the contract.

20 A February 11, 1975, was the date on which
21 REA and its affiliated companies filed their peti-
22 tion in this court under the Chapter XI of the
23 Bankruptcy Act.

24 THE JUDGE: If the rejection of
25 the contract goes back to that date,

REA

P. 9

what, if anything, is owing to the employees?

THE WITNESS: There would be nothing owing on the ten per cent reduction in the wages or vacation pay or holiday pay which would have been payable -- none of those three items which we have focused upon would be claims against the Chapter XI period or against the D.I.P. in the event that the filing date becomes the effective date of the rejection.

THE JUDGE: Move on to the next date.

THE WITNESS: The next date would be March 24, 1975, which is the date of the motion before this court to confirm the rejection under 313-1.

That was the initial proceeding that you heard and decided.

In the event that date is the effective date of the rejection, then the total of those three items, the ten per cent, the holiday and vacation pay is

Transcript of June 24, 1976, Hearing Before
Judge Galgay on the Sale of the Operating
Authorities; Testimony of F. Ralph Nogg

REA - Nogg

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the authority; our plan that we tendered to the trustee doesn't offer, does not project the transfer of the authority. It projects as making our puddingpie first, and the proof of the pudding is in the eating. If we accomplish what we say we are going to do, that is when we get the pudding pie, until that time it remains in the hands of the trustee.

The trustee says that, what if your projects fall flat instead of making money. I don't know if that is correct legally, but REAEMCO is willing to sign any liability as far as the trustee is concerned. As we go into the different percentages, and your Honor I have an unusual request. I have these things on charts. If you cite figures it becomes very complicated. I put it on the chart for your benefit. I can put them on here and then point them out.

THE JUDGE: Proceed.

A The idea of the plan is simply that REXCO operation will go in effect furthering and recognizing

REA - Nogg

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1
2
3 the very serious situation that the freight forwarding
4 industry finds itself in, is that they have been locked
5 in and they are a historic operation and one that
6 is necessary in the transportation picture of this
7 great country.

8 They have been locked in year after year
9 where the tracks are torn up, the service is worse by
10 the railroad. I say that all of the forwarders need
11 highway operation. They can't one litter carrier with
12 restricted authority be the only way to move their
13 freight over the highway. We propose an adjunct of the
14 REXCO system to offer the service for all freight
15 forwarders, to move that freight over the highway on
16 rates that they can live with and we can make a dollar
17 on. It will be highly competitive to those rates
18 which are available to themselves today. It will fit
19 into what Mr. Klausen testified, yes we are using carrier,
20 but we have arrangements with them.

21 The other forwarding companies like ABC,
22 like other firms who have been interested in this
23 proposal have the opportunity of flexibility of
24 operation without one of their competitors running.
25 Under the Alltrans proposal they say, "We are going

REA - Nogg

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1
2
3 to put in rates for the other forwarders." They are
4 saying that you take the position that we now assume.
5 We have to live up to the dictates of the motor carrier
6 operation and when we want to dictate to the rest of
7 the industry, if they want to use us, we offer an
8 unbiased party that will offer that service under the
9 REXCO division.

10 MR. KAHN: The question was, would
11 you describe the REAEMCO proposal. I move
12 that all remarks of what the other companies
13 in the U.S.A. and the rest of it be stricken.

14 THE JUDGE: I will decline to strike
15 it. You may proceed.

16 A Section 2 of the contemplated operation of the
17 REAEMCO plan is T.O.F. (trailer on flat cars). The
18 reason for T.O.F. is a double-edged reason. I concur
19 a hundred percentage with Mr. Klausen's testimony.

20 There is a very great chance that the truckload
21 operation which is now known as EXCO could be barred
22 from movement by any future REA operation. There is
23 an alternative. There is one that has been pending
24 for eight years.

25 In 1968 I advocated to top management of

REA - Nogg

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1 REA that they follow, and a service that is very
2 badly needed, which is a movement of trailer load
3 merchandise on flat cars where rail service is a part
4 of the transportation, where trucks are needed to pick
5 it up. Let's say Poughkeepsie, New York. They don't
6 have rail service to San Francisco and we pick it up by
7 truck and take it to a rail head point and put it on
8 rail and move it to the coast and we find that goes to a
9 highway which doesn't have rail service, which
10 meets the requirement of the shipping public, we move
11 it on the highway. It is a combination of the service.
12 This is an entity that I feel, and I have spoken to
13 the Con Rail people about this. This, I believe can
14 raise much more revenue for the estate than the REXCO
15 division which is not even envisioned in the Alltrans
16 plan. It is a necessary entity in American transportation.

17 Our third is the resurrection of express.

18 In order to save time and go to the various facets I
19 am incorporating it into the one entity of express
20 service: The use of the air is very important. In
21 the Wall Street Journal today is the story of the
22 Emory Fast Freight opening a freight division by air.

23 As time goes on, it has already developed

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tremendously, air freight becomes a most important segment of the transportation of this country. We remember that the origins of the REA was the pony express. We have been on horse, but we don't move them that way.

There has been a transition; rail, box car, by rail piggy-back, highway to air. There will be more by air. We can visualize running six to eight trailers into a huge piece of equipment running it through the air. If the creditors are going to say, "We are going to only work with two legs and one hand and cut the other hand off because the firm that is following through on this can't handle it by air." That is not the correct concept.

Our concept is to have complete service for the shipping public by actuality and not by word. By giving the complete inter-modal service, air and ocean going vessels. In that concept comes a very, very important thing in express service.

This morning at 9:10 A.M. I made a telephone call to Acme Fast Freight. I told them that I had a washing machine that I wanted sent to Georgia --

MR. KAHN: I object. This is not

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responsive to any question and not relevant to this issue.

THE JUDGE: Mr. Nogg has a colorful way of giving his examples. I will listen to him.

A They told us that they didn't handle this type of freight. One of the areas in REA, and it is a gimmick title, is called DIY. I am sure you scratched your head and said, what is this. That means do it yourself. A very, very large segment in the transportation picture of this country today is the ability for Mrs. Jones to send something to her daughter down in Texas or when the kids are going to camp to send a trunk or baggage. This happened to be a big article in the Bergen paper a week ago where this gentleman tried to ship the washing machine and spent three days before getting something to move it.

REA is supposed to be everything to everyone. What does do it yourself mean, it means that whenever the washing machine, the biggest cost is not moving it to Georgia, but the biggest cost is sending two men up four flights of steps to take it down and bring it down and then to Georgia. That is the cost. Many, many

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times and these fellows sitting here will tell you that they will handle shipments where REA got \$18 worth of revenue and their salary was \$22.

We propose for these people to bring articles like that to REA in the back of their car at a much lower cost and they will get a quicker faster service. A tremendous need in this country today and if you will examine what happened in the last two or three years when you have had the grandfather clock or something shipped, there is no way of sending it.

The other thing is the small shipment. We have devised a method that will take care of the small shipment. We want to take care of the small shipper who has become a forgotten man. We have a method that will save him money and give him the service. This comes in the full panorama of express service by doing what we say we are going to do.

I think that one of the greatest assets of REA was the criticism extended to REA yesterday in the courtroom, where they said it is a do all for everyone. They are a department store transportation that has been cut off from the marketing and shipping public.

We propose, through the employees of REA, to

REA - Nogg

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3 give them that, but to so construct it that everything
4 we do we make money on and give them a cheaper price.
5 All of this can be accomplished.

6 That plaque was tendered to me by the Yale
7 employees where they speak of the age of miracles not
8 being gone. The entities of three operating major
9 entities of REA; the T.O.F., the REXCO Division and
10 through the all encompassing Express Division, will
11 give the revenues laid down in my presentation.

12 Q Mr. Nogg, I had mentioned yesterday
13 that the rates of pay for employees under this proposal
14 would be based upon a nine five operating ratio. Would
15 you explain how that works?

16 A When I first got the call from Bob Devlin,
17 I told Bob that there are certain things that you have
18 to admit that helped cause the demise of REA. These
19 things, before I ever participated in them, and I
20 have to be correct, there are old rules that are just
21 words. One thing that never hurt REA was the salaries,
22 the vacation, the holidays, health, welfare and pension.
23 The rate increases took care of that. As it cost you more
24 for rent, food and so forth, the men are entitled to
25 that. In all my years I never bothered to juggle anything

REA - Nogg

involving these areas. I did on other areas. That is a guarantee where your business goes down do nothing and you pay people for not doing anything. In the mechanics field I had 56 different categories of jobs going to the ridiculous of polishing fenders and if there were none to polish, that man stood there. These are the things that happened in the REA case.

When I spoke to Bob on the telephone I said, "These things have to be cut out."

I went to Washington in 1969 where I warned them of these things and I said, "One of these days they will be selling your trucks and desks and the pen off your desk. The one thing they can't sell is the seniority of these men who have been here for 25 years. Let's straighten out and fly right."

Therefore in answering your question I told him, "If these people are going to be part of REAEMCO they have to take the good with the bad and the bitter with the sweet." Therefore, I propose a plan that this company will always operate at a nine five percentage operating ratio. We will try to set integral parts of each dollar taken in. This company must always make five cents on the dollar as a minimum. If it goes over

1 five ce ts the employees have a share in it. When I
2 talk about employees I am talking about the girl
3 that pounds the typewriter the fellow on the truck,
4 the guy at the dock and the president of the company.
5 Let's constitute this company on the basis of nine five
6 percentage. What percentage of cost, labor, counting
7 all of the labor, is total expense, that will be that
8 percentage of the profit to be divided amongst all
9 people so that when it is good they share in it,
10 when it is bad they don't share in it. Bob has
11 passed amongst many of the men and endorsed the plan a
12 hundred percentage. It is a very ingenious, novel
13 plan, where by word, by action and by performance
14 productivity, the men could get much, much more than
15 the union scale.

16 We know that people have to live. The only
17 caveat is that the absolute lowest it would be going to
18 would be this.

19 Q That is achieving based upon your
20 experience in the transportation industry.

21 A I might say for the Court that in a recent
22 publication, that the going average for the class 1
23 carrier for the U.S.A. in 1975, and I am sure Mr.
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REA - Nogg

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3 Klausen didn't have the opportunity of reading it
4 was nine five point 4. I read it in an article in one
5 of the other magazines. We are trying to achieve in
6 nine five percentage as a minimum. This is in a different
7 type of atmosphere that where every person working
8 there is a part owner of the organization.

9 From a dramatic standpoint and from a pure
10 psychological standpoint, this fellow will do better
11 when he has a part of the act on. That is what I want,
12 part of the action for the people.

13 Q Mr. Nogg, you said that Mr. Sowerwine
14 had previously indicated to you that he felt that
15 based upon his experience that two million dollars was
16 needed, is that correct?

17 A I don't want to put him on the spot. His
18 exact words were, "Two million dollars minimum. I
19 will not consider it unless there is a two million
20 dollar minimum." When I looked at it I felt that we
21 needed a three million dollar minimum.

22 Q What happened to that part of the
23 proposal?

24 A The proposal in detail on the financial
25 section shows how the three million dollars was spent.

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It showed what would be given to salesmen. We show that the salesmen would get an aggregate of $2\frac{1}{2}$ percentage of the revenue. There has to be a clarification for those that don't understand what that means.

Our proposal is that the salesmen will be assigned a given territory. For all the traffic that moves out of that territory he will be paid two percentage. For all of the traffic that moves into the territory he will be given one percentage. The gentleman who testified yesterday is very cognizant of this plan. It is vastly different from the commission agency which so blatantly was to give him five or six percentage. He only gets five or six percent with what he comes in with.

In our plan anything that comes in and out of the territory the man gets the commission. We are talking about six, seven, eight, nine percentage commission for the plan. For the edification of those here I have spoken to a hundred fellows from other companies who are ready, willing and able to come over tomorrow and participate in this dream called REAEMCO. They know that they will come there and for a three month period they will be guarantied two hundred dollars

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a week and after that they are on their own.

Q You testified that the employees would have a ten percentage contribution for the REAEMCO voting trust. Do you have a chart showing how that would build up funds?

A Yes, I do.

MR. WISEHART: Your Honor, I have a copy of this chart which at the proper time I would like to offer for the record.

THE JUDGE: Let Mr. Nogg go through the explanation first. Is that in a position where most people in the courtroom can see it? Why don't you come on up here.

A This is shown "Estimated employees investment in REAEMCO." (Other than the post and pre-chapter claims).

Under our plan they will waive their money that they will get if they have anything coming at all. This is money that in lieu of getting \$6.60 an hour, they will get \$6.60 will be paid by REAEMCO to give them ownership in the company. This is 1976 which contemplates an average of 800 employees for 18 weeks an average dedication to their individual

REA - Nogg

participation of \$24 per week and amounts up real fast.

His 245 --

MR. KAHN: I think for the future and for this examination, if this were marked we could identify it later.

MR. WISEHART: I would like to have it marked as REAEMCO Exhibit number 11.

(Above mentioned document was marked REAEMCO Exhibit 11 for identification, as of this date.)

A By 1977 and this could be information on how we hope the payroll would grow 1200 employees at 52 weeks and 1978 3,000 employees at 52 weeks and 1979, 3500 employees at 52 weeks. There is a total for five years, seventeen million eight hundred thirty six.

It is very important because you can almost double this figure. This legend at the bottom doesn't include cartage companies of commission agent who will also participate. Because wherever it is physically possible will be all BRAC employees.

I have heard from virtually hundreds in every small town in this country, of men who are willing to serve by either buying a truck and

REA - Nogg

operating a cartage service or to be the commission agent and pay the telephone bill and so forth. Every one of them are ex-BRAC employees. We estimate that it would be double of that figure.

This will go into REAEMCO. What will happen with that money that goes into there; three million dollars plus interest will be dedicated to the money that we are loaning from the Smith Financial Company in Detroit, Michigan.

THE JUDGE: That you are borrowing from?

THE WITNESS: Yes. We are borrowing three million dollars. The residual amount of money, 25 percentage will be dedicated for the purpose of pursuing to the trust a successful conclusion permanent authority for REA; 25 percentage will be used as a backup for operating expenses and for capital growth, because in our original three million dollars there is not going to be one penny spent for equipment, for trucks, for typewriters and for desks. Everything is going to be a lease arrangement.

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MR. WISEHART: Yes, Your Honor.

Q Mr. Nogg, do you have an exhibit which projects the revenue growth of the REAMCO operation?

A Yes, I do.

MR. KAHN: Mr. Wisheart, will you mark it?

MR. WISEHART: Yes, this will be REAMCO Exhibit 12.

(Document marked
(REAMCO Exhibit 12
(for identification
(as of this date.)

Q Was this exhibit prepared under your direction, supervision or control?

A Yes, I even typed it.

Q Will you describe the exhibit?

A This is REAMCO revenue growth and credit for the amortization for a ten-year period. There is all of all entities which I described before. The T.O.F. and the Express in its various facets.

I might point out that we have different entities in our projection than the entities of the Alltrans people. It totals up -- these are astounding figures, it sounds like you're talking about the

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3 government war debt, \$2,981,735.

4 I have taken the liberty to project the
5 first year on a full calendar year rather than what is
6 left of this year. The reason why there is such a
7 dramatic growth from the first year to the second year
8 is because the first year is not fully operational.

9 By the end of the second year the various
10 things that I described to you, Your Honor, will be
11 completely operational.

12 That will bring the revenue up to \$280 million.
13 It has been discussed in the court that the usual
14 rate increase historically has ranged from six to
15 eight percent. In order to be ultra, ultra conserva-
16 tive this has been increased on an average of three
17 percent not allowing for any growth, but for the
18 historic increase in rates.

19 On that basis this growth up to \$348 million.
20 Looking percentage-wise at the growth. There is
21 eighty-four percent growth from the first to second
22 year, than 3.9, 2.7, 2.3, 1.6. Under the plan the
23 amortization is tendered to the trustee. There is
24 three percent for the REXCO division which will be
25 three million, eight, nine million, nine million --

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I'm rounding out the figures. Ten million for a grand total of \$79,902,000.

The minimum that we show that will be paid under the request by the trustee on the 50 percent basis of projection will be 39 million 951.

Each year we will guarantee that a million dollars will be paid as a minimum.

We further say that if this 39 million 951 cannot be reached in ten years and if it takes fourteen years to reach that figure this will be the minimum that the creditors will get with interest.

The minimum that they will get in one given year and if you don't get it in one year then we have breached our plan. This will be the minimum that the creditors will get.

Q Mr. Nogg, I have one more exhibit that would fit in with that. Do you have an exhibit that compares the revenue, the REA revenue, before going into bankruptcy in order to give the court an idea whether these figures are achievable?

A I prepared what REA did ten years before going bankrupt. This was a major American transportation entity and not a peanut stand.

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3 MR. WISEHART: Will you mark that
4 for identification as REAMCO Exhibit 13.

5 (Document marked
6 REAMCO Exhibit 13
7 for identification,
as of this date.)

8 A In 1965 they had \$434 million worth of revenue
9 and in 1974 it was \$277 million. The absolute low ebb
10 was in 1972 of \$240 million which totals to \$339
11 million per year. Projecting that ten years \$3 million
12 was taken by REA. When we show these figures don't
13 accuse me of smoking marijuana. These figures are
14 attainable.

15 Remember with the tremendous escalation in our
16 economy or rate increase, let's say, the increase
17 would be four percent you compound that four percent
18 for the next ten years and you will find that we can
19 be doing a lot less business and still take the
20 3 billion 390 millions for ten years.

21 THE JUDGE: We will recess for lunch.

22 (Whereupon, after a luncheon recess,
23 the proceedings were resumed as follows.)

24 (The witness resumed the stand and
25 testified further as follows.)

REA

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3 A Yes. I have it in my plan that was presented.
4 The first phase would start immediately upon approval
5 by this court.

6 The second phase T.O.F. would start within
7 thirty days and we have standing by one other man in
8 this room, two of the top men in the railroad industry
9 who will step in, one of them leaving a very top job
10 to activate T.O.F. so that it is not a mere conversa-
11 tion piece.

12 They are ready and have devoted considerable
13 time. One of the gentleman spent a considerable
14 amount of time in getting commission agents in every
15 little by-pass in the eastern part of the U.S.

16 If anybody wants to examine them, I have the
17 names, addresses and the domicile of the people.
18 There is well over seven hundred commission agents
19 that will participate. T.O.F. will go in effect
20 within thirty to sixty days.

21 The next phase will be the opening of twenty
22 major terminals. The twenty terminals will be
23 effective within ninety days.

24 THE JUDGE: How would you open
25 terminals, lease or buy real estate?

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REA

THE WITNESS: Lease real estate.

THE JUDGE: Proceed.

A Within one hundred and eight days there will be thirty more terminals opened and there will be a net work of commission agents that will be fed from these terminals.

The commission agents activation will take place immediately upon the approval, then we will go out in the field and these people would have written in and who said will be docketed so that everybody will be doing everything the same, the bills, the equipment will be painted the same.

It will be an integrated operation. This will develop immediately after the approval by the court and by the time the terminals are opened they will be channeled through the terminals.

By the end of the second year and I indicated that previously, the entire REA operation, air, the operation which I mentioned very slightly, and that is the one taking care of the small shippers and the full express will be handled.

At the same time when the thirty other terminations will handle it and are fanned out and

REA

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3 A No, it was verbal approval with witnesses
4 who are present in the room.

5 Q My second question to you is: The
6 loan was subject to documents yet to be received,
7 have those documents yet been received?

8 A They never will be received until we get
9 approval from the court. That is what the documents
10 are.

11 Q Further subject to proper security
12 being arranged for the loan; has the proper security
13 as yet been arranged?

14 A In our first meeting we talked about two
15 forms of security; one, the operating authority
16 when and if we got it to be held as collateral to
17 protect the loan; number two, in the form that we
18 discussed it seemed to be more plausible as far as Mr
19 Smith was concerned was to participate in the assign-
20 ment of the employees on their claim and the monies
21 that they were contributing to REAMCO.

22 Q Do you have any writing, any acceptance,
23 by the Smith Finance Corporation of either of these
24 two alternatives of security?

25 A The matter is all predicated for finalization

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3 for the items that I discussed upon approval of the
4 plan.

5 Q Upon approval of the plan do you
6 have any document in writing, Mr. Nogg, that the
7 Smith Finance Corporation and/or its nominee will
8 accept as security for this loan an assignment of
9 the operating authorities which are being leased,
10 managed or whatever from the trustee?

11 A No, but we can have him in court tomorrow
12 to testify.

13 Q Do you have any commitment in writing
14 now that an assignment of the claims of the employees
15 or an assignment of the contribution ultimately to be
16 made by the employees will be adequate security for this
17 loan?

18 A Yes, we have that commitment verbally, not in
19 writing.

20 Q Can you have that in writing in this court
21 by tomorrow morning?

22 A I can't have that in writing. I can have Mr.
23 Smith here in person.

24 Q Did I understand correctly from Mr.
25 Wisehart's presentation that one of the advantages of

REA

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1 the REAMCO proposal was that REAMCO would not be required
2 to go to the ICC because it was going to continue the
3 rights of the trustee; did I understand that correctly?
4

5 A That's correct.
6

7 Q If it is going to continue the rights
8 of the trustee, how can it pledge those rights to the
9 Smith Finance Corporation for a start up loan?
10

11 A Because under the plan which we talked about
12 originally it was not the purchase of the plan at
13 all, it was merely as an agency and a different form
14 would be used for the capitalization of the loan,
15 strictly the pledges.

16 Q Under the present plan which is
17 presently under consideration by this court are those
18 operating rights to remain in the trustee initially
19 or not to remain in the trustee initially?
20

21 A That's correct.
22

23 Q Which?
24

25 A Supposed to remain in the hands of the trustee
-- other one of the plans until the matter is concluded
and the Smith Finance Company would take a secondary
position.

Q If the operating rights remain in

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3 in the hands of the trustee and the trustee doesn't
4 give the Smith Corporation a secondary position,
5 whatever that may mean what happens to your plan?

6 A We would use an alternative method which is
7 the pledges of the employees.

8 Q Have the pledges of the employees
9 without the pledge of the rights been accepted in
10 writing to date by the Smith France Company and its
11 nominee?

12 A It has not been accepted. There is a
13 caveat in Mr. Smith's situation that he has been
14 hired to find the money for REA. For this he gets
15 \$150,000. If he is unable to do that, that relieves
16 us of our commitment to him. We gave him a commit-
17 ment that if he would give us the \$3 million we would
18 give him the right to get that money. If he can't
19 give it on that basis we have an alternative plan
20 which is the first plan, but it is such a long plan
21 that we went to the first one to Smith and that's
22 to get the money from those people there and the first
23 gesture that we made on approximately 5 percent of the
24 former REA employees were willing to hock their cars,
25 homes and so forth was \$319,000.

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If that fails, that is, the Smith deal fails we will get that money by approaching the rest of REA. We have the pledges in writing from the handful of people that we have contacted.

Q Is it a fair statement that this proposal that you are asking the court to accept that there is no commitment in writing for one penny of the \$3 million of capital?

A No, that is not a fair statement.

Q Can you produce in writing why that is not a fair statement?

A In the letter of March 22nd. "We hereby commit to fund approval in the amount of \$3 million."

Q Mr. Nogg, in view of your expertise --

A First, would you kindly refer to expertise in what?

Q Your expertise as a manager in the transportation industry, as the head of Republic Car Loading, is a Chapter X --

A I want to know what you consider me to be an expert in?

Q What you have told us about this morning. Let me ask you whether if the Smith

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3 Finance Corporation does not fund that \$3 million,
4 the extent of the damage that you can recover from
5 them based upon Trustee's Exhibit 6?

6 A I have made contacts with banks, sir. If we
7 get the authority and only a few days is allowed
8 that can be funded through many other methods including
9 some people who are in the room right now.

10 Q Mr. Nogg, do you have commitments
11 from any of these banks, from any of these people in
12 this room right now?

13 A I have as much commitment from them as I had
14 from the trustee.

15 MR. KAHN: I move to strike that out.

16 THE JUDGE: I won't strike it out but --

17 Q We have seen -- excuse me.

18 How much does REAMCO -- does REAMCO have a
19 bank account today?

20 A No.

21 Q Does it have any assets whatsoever?

22 A We have the assets of a lot of people who
23 are unemployed, want to get back to work and that is
24 very valuable.

25 Q Do you have any other assets besides

REA

that?

A We have no assets, the company is formulated for one purpose and that is to operate the plan of reorganization for REA. Once that plan reaches fruition the proper steps will be taken to get the necessary funding and so forth.

Q What happens to the trustee if you don't get the necessary funding having sold the right to you and lost the offer from Alltrans, All Truck and A.B.C. Freight.

A He has not lost anything. He has the waiving of the employee's benefits, the once will be taking the big gamble will be the employees for at least \$12 million.

Q With respect to the waiving of the benefits would you produce for me now one single employee who has waived his benefits in writing?

A I believe there is another witness that can give you that information and is more qualified.

Q You personally cannot produce one single assignment or one single waiver of claim?

A That is not my portion of this transaction. That's being handled by the labor portion.

REA

Q Is the answer no?

A I would suggest that you ask Mr. Robert Devlin that same question.

MR. KAHN: I don't want to argue with him, Judge.

MR. WISEHART: He will be on the witness stand.

THE JUDGE: Mr. Nogg says that Mr. Devlin will be the more appropriate witness. I am satisfied with that.

Q Where is REAMCO, which state?

A It is a Delaware Corporation.

Q When was it incorporated?

A I don't know the exact date. I have the corporation papers here.

Q Who are its present shareholders, Mr. Nogg?

A The present shareholders, if I can refer to the corporation papers which are right there.

THE JUDGE: Why don't you inquire into other areas?

Q Did I understand you correctly that the Smith Finance is merely the finder and will get

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3 A No.

4 Q Then there is no default except for
5 non-payment?

6 A Very simply because if a loan was funded
7 through the REAMCO and not the operating company.

8 Q What do you mean by funded?

9 A The money would be loaned to REAMCO and not
10 to REA. When we approached Mr. Smith our plan was
11 that we would operate under a management team through
12 the federal trustee and the plan as submitted to the
13 court is so constituted. REAMCO's only avenue of
14 revenue will be the money on a weekly basis by the
15 employees.

16 The loan was constituted, and the various
17 entities that you discussed had nothing to do with it.

18 Q The management company would manage
19 the rights for the trustee?

20 A Yes, that was the first plan.

21 Q The rights would remain in the name
22 of the trustee?

23 A That's correct.

24 Q If there were any profits those would
25 result to the trustee also, is that correct?

Transcript of June 25, 1976, Hearing Before
Judge Galgay on the Sale of the Operating
Authorities; Testimony of F. Ralph Nogg

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4 which are contingent upon REAEMCO being the success-
5 ful bidder at this sale?

6 A No, sir, absolutely not.

7 Q Am I correct, this is similar in
8 the commitment for money in that it is entirely oral
9 at this time?

10 A No, it isn't oral. I have the written
11 resumes of these people in my office in Denver.

12 Q Is it --

13 A When, in response to telephone conversations
14 and other exchange of correspondence, they furnished
15 resumes and indicated in the resumes their avail-
16 ability. We do not have any contracts.

17 THE JUDGE: Can you give me any idea
18 as to salary levels which you are talking
19 about?

20 THE WITNESS: The salary levels are
21 all predicated -- upon the same basis as
22 the men. The two people, one would either
23 be the operating head of the company or the
24 executive vice president of the company.

25 The top level is \$38,000 of which
ten percent would come off for participation

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4 in the REAEMCO plan, which would leave
5 approximately \$35,000 salary. \$38,000 but
6 it would come out that his salary would be
7 \$35,000 without the contribution.

8 The next is \$35,000 less ten percent.

9 The salary level ranges are from \$20,000 up
10 to \$28,000 for ten men. I have details of
11 the plan here of the different categories.

12 Q How about yourself, Mr. Nogg, what
13 capacity would you serve in?

14 A As a consultant for five years.

15 Q Is that contract in writing?

16 A No, sir, there is no contract in writing.

17 Q What would your compensation be?

18 A Compensation has not been set.

19 Q Have the number of hours which you
20 would be available been set?

21 A That will be set at the request of the board
22 once we get the authority. We have discussed that
23 and if we feel that I have got to put in eight hours
24 a day, I will devote eight hours. If four hours is
25 sufficient, it will be four hours.

It is completely flexible.

REA

p. 10, 13

We offered this proposal, which in essence is a reorganization proposal. The trustee advised us that that was not acceptable. Would we allow the same proposal to go in under a liquidation process. There were telephone conversations and discussing it with other counsel and with other members of our REAEMCO setup; we said yes, we'd go along on that.

The date that we presented this -- we have not put anything in writing to the trustee. What he constituted on what is our offer today and the verbiage I used, I think he used stock. When I saw stock, I presume that that included the rights.

If he had the rights now, that there would be a waiver of the rights back into the stock. We are willing on our plan to press this type of plan that is necessary to -- so that we can get the operating rights. Whether the verbiage is stock or we are building the REAEMCO under the operating rights theory, that's the way we want to go.

Whatever is proper, the verbiage that was supplied and which is now a part of our plan --

THE JUDGE: Well, Mr. Nogg, you are

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familiar with the basic business problems.
When you buy the stock in a company, you
take it over, you take over its management,
its assets and its liabilities.

THE WITNESS: I thought there would
be a quit claim on the operating authorities,
that we would get it without debt and it would
be a quit claim on the stock that passed onto
the trustee in the bankruptcy.

That was my understanding. Now, I am
told legally that is not proper, it can't be
done in any Chapter XI proceeding and so forth.

Whether it can or not, I am not
qualified from a legal standpoint and there
are attorneys here that could properly classify
that. But during the break here I got such a
variance of opinions of what could and could
not be done, that I really am now much more
confused than I was before the conversation.

Q Mr. Nogg, have you heard Mr. Weishart
state to this court that he has filed or is planning
to file a petition for reorganization?

A Yes.

Transcript of June 25, 1976, Hearing Before
Judge Galgay on the Sale of the Operating
Authorities; Colloquy Between Counsel and the Judge

6/25/76

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MR. KAHN: Well, Judge, we can't very well stay the adjudication. That's long down road.

THE JUDGE: No, but the administration of an estate in bankruptcy -- well --

MR. KAHN: Does that mean that we should not pay our payroll today or that we should not continue the REXCO operation immediately?

I don't -- I can't believe --

THE JUDGE: I don't know, I didn't file the petition.

MR. WEISHART: Your Honor, may I be heard on that?

THE JUDGE: Yes.

MR. WEISHART: The petition has been submitted for filing.

THE JUDGE: But not filed.

MR. WEISHART: Your Honor has reserved decision on that question. I am inclined to agree with what Mr. Kahn said that this entire hearing would contain evidence that would be relevant to Your Honor's decision as to

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whether or not you want to make that decision in favor of the filing.

Until that time it would be my view that the stay provision certainly would not apply. It might be that at the time that Your Honor makes the decision supplemental orders could be entered which would obviate any administrative difficulties.

On Mr. Kahn's other statements, I am in substantial agreement except with the way he phrases the question. But I think my reading of the local rules is that they really don't contemplate a situation in which a Chapter X petition is filed in a pending case, that they apply specifically to a case in which there has been no pending bankruptcy proceeding.

Therefore, it seems to me that the general reference rule of Section 2C of the local rules does apply, making applicable the bankruptcy rule provision, which would constitute an automatic referral to Your Honor for the reasons that we have set forth in our

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memorandum .

MR. KAHN: I am certainly satisfied with that, Judge. There is no dispute with that at all. I might comment, however, that -- I might ask a question as to whether I understand that the petition has not been formally filed because my understanding is that a petition in bankruptcy, voluntary or involuntary, Chapter X voluntary or involuntary and Chapter XI only voluntary must be filed with the Clerk of the Court and that if it's not so filed, it's not filed at all.

Therefore, if Mr. Weishart states that as not filed it, he has submitted it to Your Honor but not formally filed it then it is not pending.

I might then inquire as to whether or not Mr. Weishart will not file such a petition pending a determination by this court on the issues presently pending before this court and whether, assuming that REAEMCO is the successful bidder, he would not file it at all and whether if REAEMCO is not the

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150 NASSAU ST., NEW YORK, N. Y. 10038, CORTLANDT 7-3577

REA

successful bidder, he intends to file it after someone else, some other bidder is awarded the rights?

THE JUDGE: Well, I will say this: If Mr. Weishart can answer your question, he would have followed you much closer than I did. I lost you. But let me say this: Let the record be clear, Mr. Weishart, that you have not formally filed a petition, lest some automatic stays or some other things come into being that might wreck havoc with the administration of the estate at the moment.

MR. WEISHART: That's correct, we certainly do not wish to have that type of consequence. We have submitted it to you in view of the fact --

THE JUDGE: But not in the sense of any formal filing so as to invoke automatic stays.

MR. WEISHART: That is correct.

THE JUDGE: So we will at least know there are no dramatic consequences between now and the time we return from lunch.

Transcript of December 22, 1976, Hearing Before
Judge Galgay on the Motion to Disqualify the law firm
of Wisehart, Friou & Koch from Representing Interests
Adverse to the Trustee and Disclosing Confidential
Information; Testimony of Robert E. Friou

12/22/76

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the motion?

A In that case we certainly represented the trustee.

Q You certain represented the trustee.

Did you ever ask him whether you should oppose the motion?

A No, he came and told us you will be served of notice of this motion on instruction.

Q Did he ask you to go out and oppose that motion?

A No.

Q Did he ask you to serve any papers? Did he say I want you to serve papers in opposition to the motion?

A No, he served papers on us.

Q Did he ask you to serve papers against the motion, yes or no, Mr. Friou?

A No.

Q Did he ask you to come to court and argue against that motion?

A That was my understanding -- not that we should oppose it or not oppose it, why else would he tell us we were going to be served.

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3 A He has the obligation to see that it is done.

4 Q Mr. Friou, whose interest did you
5 represent when you imposed the trustee's motion to
6 retain the firm of Windells & Marks? Who were you
7 acting for?

8 A We were acting in that case initially as
9 special counsel to the trustee. He informed us at
10 a meeting which was held and it is in my testimony
11 that I think it was --

12 MR. KAHN: I move to strike. The
13 only question was who did he represent.

14 A The trustee told us we are going to file a
15 motion to retain Windells & Marks and you will be
16 served with notice of that motion upon the instruction
17 of the court.

18 I take that to be an instruction by the
19 trustee that we are to do what has to be done.

20 THE JUDGE: Did you oppose the motion?

21 THE WITNESS: Yes, sir.

22 Q Who asked you to oppose the motion?

23 A The trustee said you will be served with
24 notice of this motion. What does that mean to you?

25 Q Who did you represent when you opposed

Transcript of August 24, 1976, Hearing Before
Judge Werher on the Appeal from the Order
Approving the Sale of the Operating Authorities to
Alltrans; Colloquy between the Court and Counsel

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2 is whether the conflict issue ever got to this Court,
3 not what the conflict issue is. Our position has been --
4 and the Judge below has also held -- that the conflict
5 issue has never been raised. There is no motion to remove
6 the trustee and, therefore, I think Mr. Friou is now
7 going to clutter the record with comments about the
8 history going back to 1931 on a conflict issue. I must
9 preliminarily object.

10 THE COURT: The question is: Can it be
11 raised?

12 MR. FRIOU: We have raised it innumerable times,
13 We have raised it in the hearing on which this appeal
14 lies. We said --

15 THE COURT: The method for raising a question
16 of conflict is to make a motion to disqualify the trustee.
17 Has that ever been done?

18 MR. FRIOU: There has been no motion, your
19 Honor.

20 THE COURT: If there has been no motion then
21 the question is: How can it be raised here?

22 MR. FRIOU: The Court can raise it itself.
23 It is pervasive on the credibility issue.

24 THE COURT: I would like to listen to you
25 as to how it can be raised on appeal if the motion has

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never been made.

MR. FRIOU: The credibility of the trustee is completely at issue in this proceeding in the first place. The credibility depends upon, in this case, a long and involved background of a substantial conflict of interest. This is not a personal attack on counsel or upon the trustee for whom I have high regard. This is an attack on the appearance of the situation which involves claims of railroads against REA running into several millions of dollars of claims by REA against railroads running to hundreds of millions of dollars with defenses against the railroad creditors' claims that have never been raised by the trustee, which employ creditor claims of \$50,000,000, which the trustee has disallowed, with claims of air lines against REA of \$5,000,000 or more, and a potential claim by REA against the air lines of \$50,000,000. The trustee, by his own statement, was selected by a representative of the air lines and introduced to the creditors' committee. His counsel are recognized. They have substantial representation of railroad interests. They appeared in the creditors' hearing in Chapter XI as the attorneys for creditors and the sponsors of a creditors' committee that was selected; they introduced the trustee to the

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a hearing on the subject. He could have endorsed our request to the Court for a hearing on June 16th. Counsel could have brought up the same question. It should not fall on our shoulders and it should not deprive the 8,000 out-of-work people of a hearing on this subject simply because we didn't make a motion. That is our point of view this morning, your Honor.

Furthermore, this question received no attention whatsoever in the hearing. My partner raised the questions and he was told by the Court, "I will not permit that issue to intrude upon this hearing because it might be inflammatory." And what the Court meant, with due respect to the Court, was that there were 8,000 people, a great number of them in the courtroom, and for them to hear that their claims of \$51,000,000 had been disallowed, and that the Australian interests were going to take over this company, and no jobs were going to be assured to them, was a question that might have aroused them to inflammatory action in the courtroom.

That may not be a motion to disqualify, but it comes as close to it as I know how to make it without going the extra step. We are talking about a procedural nicety against what could be potentially an enormous coverup of a situation that we say should be fully aired.

Transcript of July 9, 1976, Hearing Before Judge
Galgay on the Sale of the Operating Authorities;
Colloquy between the Court and Counsel

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3 filed.

4 MR. WISEHART: But submitted for
5 your consideration for filing.

6 MR. KAHN: Your Honor --

7 MR. WISEHART: Subsequent to
8 hearing the trustee's comments.

9 MR. MARCUS: I will object to
10 that.

11 MR. KAHN: You have no authority,
12 Your Honor, to read a petition which is
13 not filed as yet.

14 THE JUDGE: I will not hear any
15 argument under Chapter X.

16 MR. WISEHART: We have submitted
17 a memorandum on our position regarding
18 the filing. I have not seen any from
19 the other side.

20 My understanding is that you are
21 taking it under advisement. Earlier --

22 THE JUDGE: Wait a minute. You
23 handed that up as a document and I thought
24 we made it clear in the record that you
25 were just advising me that there was a

REA

petition for Chapter X in existence and made it part of the record in this case and it was not filed in any legal sense.

All you were doing was telling me that certain creditors had signed a petition that had not yet been filed.

MR. WISEHART: I just want to point out that in the memorandum that we have filed the following day pursuant to an inquiry that was made, having researched the law and the rules, it is our understanding, although it is not entirely free from doubt that the petition would be filed with the court rather than with the clerk because of what we believe is the effect of the automatic reference rule; so that Your Honor has it within your control, Your Honor as we see it to make a determination about the filing itself.

We are presenting this as an alternative. Mr. Kahn had said earlier that this hearing could be regarded as a

Transcript of July 1, 1976, Hearing Before
Judge Galgay on the Sale of the Operating
Authorities; Testimony of Robert J. Devlin

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one of which you have read into the record. I ask you if you know of your own knowledge with respect to any of those sheets whether the employee who has signed such a sheet has filed a claim in this proceeding?

A No, but I can check it. We only asked those employees who did have a post chapter XI if they would sign it.

As a matter of fact, there are two employees sitting out there who are retired employees and I asked them because I felt they would fall in that category of 5% who might not assign their claim to REAEMCO and they have assured me that they will assign their claim so that the other fellows can get a shot at getting back to work and get to retirement age and enjoy the same benefits as I am enjoying.

Q Are there any of the yellow sheets which have been signed by a notary public and the signature of said employee acknowledged?

A No, I am sure it is not. It is a very poor effort. It is not in legal form, but reflects the sentiment of the people who are former employees

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3 of this company.

4 Q Are there any other assignments
5 of claims or pledges of assignment of claim which
6 you have in your possession at this time or which
7 you may have somewhere else other than in this
8 courtroom, Mr. Devlin; in other words, if I were
9 able to let you out of the courtroom and have you
10 come back within two hours, could you add any
11 other documentation as set forth in Trustee's
12 Exhibit No. 9?

13 A I -- as a matter of fact, if you will
14 look in Trustee's Exhibit No. 10. I didn't think
15 you were going to seize my records here.

16 THE JUDGE: He is not going to
17 seize your records.

18 A I have some notes in here and everything.
19 Way down at the bottom of that I think there are
20 8 or 10 powers of attorney with a footnote by
21 the employee and these are dated back to December
22 4th "This will authorize R. J. Devlin to use my
23 claim towards the contribution for the rights of
24 the REA Express employees." You will find maybe
25 8 or 10 of them that were hooked in there for

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3 filing purposes.

4 Q Aside from these which are con-
5 tained in Trustee's Exhibit No. 10, are there
6 any other documents which have been executed,
7 to your knowledge, by employees similar to
8 Trustee's Exhibits 9 and 10?

9 A No, I don't believe so. I would not,
10 you know, I would like to make it clear that this
11 is a job that was going to be undertaken had we
12 the assurance of the trustee or the court that
13 this plan was acceptable then we would go ahead
14 and get the work done. I don't anticipate any
15 problem with it.

16 EXAMINATION BY MR. ANGEL:

17 Q Mr. Devlin, in one of our meetings
18 that you had with counsel for the trustee and the
19 trustee did we not discuss the form that a legal
20 assignment of claim would have to take so as to
21 be satisfactory to the trustee?

22 A I am wondering if it was the meeting on
23 May 4th.

24 Q I don't remember the meeting. I
25 remember the discussion.

Order of the Bankruptcy Court, dated January
14, 1976, Authorizing Retention of Wisehart &
Koch, with Application and Affidavit attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In Re	:	No. 75 B 253
REA EXPRESS, INC.	:	
f/k/a Railway Express	:	ORDER AUTHORIZING RETENTION
Agency, Inc.,	:	OF WISEHART & KOCH AS SPECIAL
	:	COUNSEL TO FEBRUARY 6, 1976
. Bankrupt.	:	

-----X

Upon the annexed application of C. Orvis Sowerwine, the Trustee, by Whitman & Ransom, Esqs. and Marcus & Angel, Esqs., his attorneys, and the annexed affidavit of Frank M. Buscaglia, Esq., a member of Wisehart & Koch, and it appearing to be in the best interest of this estate and no adverse interest appearing; it is

ORDERED, that the Trustee herein is authorized to retain Wisehart & Koch as special counsel to represent him and the bankrupt estate in connection with the matters described in the annexed application; and it is further

ORDERED, that the Trustee compensate Wisehart & Koch for the services to be rendered by them commencing as of the 7th day of November, 1975 at a net sum not to exceed \$8,000 per month, plus disbursements, such amount to be paid to Wisehart & Koch in monthly installments not earlier than ten (10) days after the rendition by said law firm to the Trustee, co-counsel to the Trustee and this Court of statements indicating the services rendered, the time spent in performing such services, the status of the partner or employee performing the services, and the compensation requested; and it is further

ORDERED, that this Order shall be without prejudice to the filing and allowance of any claim by Wisehart & Koch for compensation for all services rendered to the Debtor or Debtor-in-Possession prior to November 6, 1975.

JOHN J. GALGAY
Bankruptcy Judge

Dated: New York, New York
January 14, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In Re	:	No. 75 B 253
REA EXPRESS, INC., f/k/a	:	APPLICATION FOR AN ORDER
Railway Express Agency, Inc.,	:	AUTHORIZING THE RETENTION
	:	OF WISEHART & KOCH AS
Bankrupt.	:	SPECIAL COUNSEL TO
	:	FEBRUARY 6, 1976

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TO THE HONORABLE JOHN J. GALGAY, BANKRUPTCY JUDGE:

The application of C. Orvis Sowerwine, Trustee in Bankruptcy, by his attorneys, Whitman & Ransom and Marcus & Angel, respectfully alleges:

1. On February 18, 1975, the above-named Bankrupt filed a petition for an arrangement under Section 322 of Chapter XI of the Bankruptcy Act.
2. On February 18, 1975, this Court entered an Order authorizing the Debtor-in-Possession to operate its business.
3. The Debtor-in-Possession was engaged in the business of surface and air express shipments throughout the United States under the regulatory jurisdiction of the Interstate Commerce Commission and the Civil Aeronautics Board. It was also engaged in international transportation services and custom brokerage.
4. On November 6, 1975 the above-named Debtor was adjudicated a Bankrupt by Order of this Court. On November 7, 1975, the applicant, C. Orvis Sowerwine, duly qualified as Trustee by filing his bond. The bond was approved by order dated November 7, 1975.

5. The Trustee desires to engage Wisehart & Koch of 219 East 42nd Street, New York, New York as special counsel for assistance with the following matters:

- a. Regulatory matters and litigation involving the I.C.C. and the C.A.B. and the various state agencies having jurisdiction.
- b. Analysis of the Bankrupt's operating rights and preservation of those rights as an asset of the estate in contemplation of the sale of the same.
- c. Labor litigation involving the Bankrupt.
- d. Correspondence and legal proceedings concerning: non-payment of fuel taxes, delinquent real estate taxes; loss and damage freight claims; collections due the Bankrupt handled previously by Wisehart & Koch; personal property taxes; C.O.D. matters.
- e. Matters pertaining to real property and equipment leases.
- f. Continuing attention to the major litigation involving the Bankrupt in the application of August 28, 1975.
- g. Continuing attention to personnel and labor relations matters.

6. To the best of his knowledge, information and belief, Wisehart & Koch have no connection with the Bankrupt or its attorneys or with any creditors herein except as described in the accompanying affidavit of Frank M. Buscaglia, Esq.

7. Applicant believes that the firm of Wisehart & Koch, because of its knowledge and experience concerning the Bankrupt, its personnel, properties and major litigation, can greatly assist Whitman & Ransom and Marcus & Angel in the handling of the foregoing matters and such assistance will substantially reduce the cost of legal services to the estate. Moreover, the continuing availability of said knowledge and

experience concerning the Bankrupt must initially be retained because of its value to the bankrupt estate. The Trustee has no connection with or personal interest in the firm of Wisehart & Koch and makes this application solely because he feels that said firm is well qualified to render the services specified herein.

WHEREFORE, applicant respectfully prays that the annexed order be signed.

C. ORVIS SOWERWINE, Trustee
By Whitman & Ransom and
Marcus & Angel, co-counsel

By:

A Member of the Firm of
Whitman & Ransom

Dated: New York, New York
January 14, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of :
REA EXPRESS, INC., : 75 B 253
f/k/a Railway Express Agency, : (JJG)
Inc., :
BANKRUPT. :
----- x

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.

FRANK M. BUSCAGLIA, being duly sworn, deposes and says:
That he is a member of the firm of WISEHART & KOCH, of
219 East 42nd Street, New York, New York, and that the said firm
has no connection with the bankrupt, creditors or any other party
in interest, or their respective attorneys except as follows:
(a) WISEHART & KOCH has been associated with the debtor and
debtor-in-possession as attorneys; (b) Arthur M. Wisehart, Esq.,
and Frank M. Buscaglia, Esq., members of the firm, had been em-
ployed by REA Express, Inc., until June 1, 1974; (c) WISEHART &
KOCH has in the past represented the debtor and debtor-in-posse-
sion in connection with a variety of legal matters and as a result
is a creditor of the bankrupt; and (d) Arthur M. Wisehart, Esq.,
is the owner of record of 42,993 shares of common stock, out of
2,280,284 shares outstanding, of REA Holding Corporation, of which
the bankrupt is a subsidiary, said stock being held in trust for
the benefit of his children.

That your deponent represents no interest adverse to the
Trustee of the estate in the matters upon which it is to be
engaged.

WISEHART & KOCH

By Frank M. Buscaglia
Frank M. Buscaglia
Member of the Firm

Sworn to before me this
30 day of December, 1975

Arthur M. Wisehart
Notary Public
NOTARY PUBLIC
STATE OF NEW YORK

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Index No. 76/5039

MATTHEW E. MANNING, et al.,

Appellants, ~~XXXXXX~~

against

C. ORVIS SOWERWINE,

Appellee.

~~XXXXXXXX~~

AFFIDAVIT OF SERVICE
BY MAIL

STATE OF NEW YORK, COUNTY OF

ss.:

The undersigned being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 522 Fifth Avenue, New York, New York

That on February 1, 1977 deponent served the annexed two copies of Brief and Appendix on David J. Fleming at 1414 Avenue of the Americas, New York, New York 10019, ~~and~~ and William J. Donlon at 6300 North River Road, Rosemont, Illinois 60018, attorney(s) for Intervenor, Brotherhood of Railway and Airline Clerks in this action at see above the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in—a post office—official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me this 1st

day of February, 1977

Patricia Ann Murray
Notary Public

PATRICIA ANN MURRAY
Notary Public, State of New York
No. 24-4620415 Qualified in Kings Co.
Cert. filed with New York Co. Clerk
Term Expires March 30, 1977

Leo Fox

The name signed must be printed beneath

LEO FOX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Index No. 76-5039

MATTHEW E. MANNING, et al.,

Creditors-Appellants ~~PLAINTIFFS~~

against

C. ORVIS SOWERWINE, Trustee in Bankruptcy

Appellee

AFFIDAVIT OF SERVICE
BY MAIL

~~DEFENDANT~~

STATE OF NEW YORK, COUNTY OF NEW YORK

SS.:

The undersigned being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 522 Fifth Avenue,
New York, New York

That on February 1, 19 77 two copies of the
Brief and Appendix deponent served the annexed

on James L. Highsaw of Highsaw, Mahoney & Friedman
attorney(s) for Intervenor, Brotherhood of Railway and Airline Clerks
in this action at 1050 Seventeenth Street N.W. Washington, D.C. 20036
the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed
in a postpaid properly addressed wrapper, in—a post office—official depository under the exclusive care
and custody of the United States Postal Service within the State of New York.

Sworn to before me this 1st

day of February, 1977

Patricia Ann Murray
Notary Public

PATRICIA ANN MURRAY
Notary Public, State of New York
No. 24-4620415 Qualified in Kings Co.
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Leo Fox

The name signed must be printed beneath

Leo Fox

1 copy rec'd
Feb 1, 1977
Amirshant